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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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Transcript of Record.  
(IN FOUR VOLUMES.)

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JOHN A. JESSON, E. R. PEOPLES, JAMES W.  
HILL, RAY BRUMBAUGH, R. C. WOOD  
and JOHN L. MCGINN,

Appellants,

vs.

F. G. NOYES, as Receiver of the WASHINGTON-  
ALASKA BANK, a Corporation, Organized  
Under the Laws of the State of Nevada,  
Appellee.

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VOLUME II.  
(Pages 321 to 640, Inclusive.)

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Upon Appeal from the United States District Court  
for the Territory of Alaska, Fourth Division.

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(Deposition of Carl M. Johanson.)

Q. And from the conditions which existed at that time you could not determine but what they would continue the same way?

A. We could not anticipate that the depression would exist so long as it has.

Q. Did the tariff have anything to do with it?

A. Well, there was no tariff that interfered with the lumber industry up to the present administration.

Q. Was there not an agitation for free timber at that time?

A. Well, there was an agitation, but there was no law, as I remember it, that affected the lumber industry.

Q. Transportation had a lot to do with it?

A. Yes, transportation had something to do with it, but the main thing was the general depression throughout the country in all lines of business.

Q. That was at the time when all the banks of the country went upon the scrip basis?     A. Yes.

Q. Now, you were asked in regard to the market value of the property, as to the value of the stock; as a matter of fact, the stock was never put on the market, was it—it was never offered for sale?

A. Well, stock of that character in an industrial corporation has no market value. When you speak of stock having a market value you mean it is being bought and sold, probably. This has never had that.

Q. You never put any of the stock on the market or anything of the kind?     A. No, sir.

Q. —so that the value could be ascertained.

(Deposition of Carl M. Johanson.)

A. The stock would be worth what the assets of the company represented, less the obligations. [249]

Q. Well, as a matter of fact, it is pretty hard to determine what the value of Gold Bar was in 1907-8?

A. The value of Gold Bar in 1907—we had to look at it from the way the conditions were at that time.

Q. Then it is a hard matter to determine, is it not—that is, you have your opinion about it and another man has his opinion about it.

A. Well, that is true to some extent. Of course we base our conclusions on what the other property of the same kind sells for in arriving at the value.

#### Redirect Examination.

Q. (Mr. RIDER.) Mr. Johanson, were you present when each of those photographs were taken?

A. I was, as I remember; at least they were all taken there.

Q. Do you remember where the photographer was standing when he took the two photographs marked plates 1 and 2, which are Exhibit No. 1?

A. Yes, sir, he was standing on a high stump.

Q. Whereabouts, in reference to the mill property?

A. North of the mill, a little northeast, mostly north.

Q. Do you remember about how far he was from the mill?

A. About three-quarters of a mile, half a mile to three-quarters of a mile.

Q. From the mill?      A. From the mill.

(Deposition of Carl M. Johanson.)

Q. Do you remember where he was in reference to the pond; how close he was to the edge of the pond?

A. Well, the pond is right at the mill; it is a little nearer to the pond than the mill, on account of the pond running northeast from the mill.

Q. Do you remember where the railroad runs out along the edge of the pond there?

A. Yes, a logging road.

Q. How close was he to that logging road, if you remember? [250]

A. Well, he was about one-eighth of a mile, I should say, maybe a quarter.

Q. From the road that runs in to the mill?

A. Yes, from the logging road; he may not have been more than one-eighth of a mile—about one-eighth of a mile—it is not a long distance.

Q. Do you remember where he was standing when plate No. 3, which is Exhibit No. 2, was taken?

A. I cannot place this picture, excepting that it is in the valley.

Q. Do you remember where he was standing when plates No. 4 and 5, being Exhibit No. 3, were taken.

A. Well, he was standing about the same locality as where he took this picture No. 3, except that he turned the camera in a different direction. This No. 3 is a little nearer to the hill than this.

Q. Don't you remember that after the first exposures were taken we walked down the railroad and then down the country road to get to the position where No. 3 was taken?

A. Yes. There is part of that in both pictures.

(Deposition of Carl M. Johanson.)

Q. But we were down closer.

A. Yes, we were close up to it. Here is where we were, down around that house.

Q. This bunch of timber which appears in the center of plate No. 2, and back of the house shown in the picture, can you find that timber on plate No. 4?

A. It is out there (showing).

Q. That is the timber on the left of plate No. 4?

A. Yes, sir, right there (showing). This is just a little scrap stuff here, it is not even piling, just small stuff.

Q. On plate No. 6, being Exhibit No. 4, you say that is not part of the Gold Bar property?

A. This was disposed of in the early days—away up yonder is some of the logged-off land. [251]

Q. I refer to the foreground of Exhibit No. 4. Was there any of that that was not part of the Gold Bar property?

A. It was in the early days, but then that was sold. I think most of it was sold by Lewis before we acquired it.

Q. Now, the logged-off land shown in Exhibit No. 2, is that now owned by the Gold Bar Lumber Company?

A. No, that was sold; this valley land, most of it, was sold early.

Q. Before or after you acquired it?

A. Some of it was sold after we acquired it and some of it before; most of it was sold in 1908-9, or somewhere along there.

Q. Now, what proportion of the valley land that

(Deposition of Carl M. Johanson.)

is part of the Gold Bar Lumber Company's property is shown in Exhibit No. 1 (showing) ?

A. There is no valley land shown here; it is all hill land.

Q. Is none of the foreground there valley land ?

A. Well, there might be just a little strip—well, it might be up about there (showing). This house seems to be right at the base of where the foothills begin.

Q. Then from the house to the bottom of the picture, that is from a line drawn lengthwise through the house, the lower portion of the picture would represent valley land.

A. Yes. Well, the picture itself shows the demarcation where the hills begin to rise.

Q. Now, you said that a portion of Exhibit No. 1 was not a part of the property of the Gold Bar Lumber Company; what part of it does not belong to the Gold Bar Lumber Company ?

A. Well, this covers an area of several square miles.

Q. Is any of the standing timber shown there not belonging to the Gold Bar Lumber Company ?

A. Yes, this is all Port Blakeley holdings up here.

Q. The standing timber on plate No. 1 ?

A. Yes, sir; back of here where you see the logged-off land, back of this standing timber is Gold Bar.

Q. That is back of the mountain, back of the timber ? [252]

A. Yes, sir; and the timber running up here is also part of the Gold Bar holdings. This here on the

(Deposition of Carl M. Johanson.)

right of the picture is Stimson's holdings.

Q. On this picture the background extends quite a distance.

A. On this picture you can see probably thirty or forty miles up the mountain.

Q. On Exhibit No. 3 there appears rough ground in the foreground with a little timber on the left of it? A. Yes.

Q. And the rest of it logged off—is that part of Gold Bar property?

A. That was a part of it until we sold it to Jenson last year.

Q. What portion was sold to Jenson?

A. We sold him a thousand acres.

Q. Of this ridge? A. Yes, sir.

Q. That logged-off ridge? A. Yes.

Q. And when was that sold to Jenson?

A. About a year ago.

Q. How much did the company get for it?

A. A dollar an acre. You can see the exposed rocks here.

Q. What, in your opinion, was the value of Gold Bar property in the last of June, say June 30th, 1908?

Mr. McGINN.—I make the same objection to that, that the witness is not shown to be competent to testify.

A. Well, it would be the same basis I valued it at in March, 1908.

Q. (Mr. RIDER.) Do you think it was worth the same price?



(Deposition of Carl M. Johanson.)

A. The original investment, plus interest on the investment at six per cent up to that time?

Q. Up to June 30th?      A. Yes.

Q. What would you say was the value of the Gold Bar Lumber Company property in September, 1909?  
[253]

Mr. McGINN.—To which we object on the ground that it is irrelevant, immaterial, incompetent and calling for the personal opinion of the witness, the witness not shown to be qualified to answer, it not being shown that he is acquainted with the number of feet of lumber upon the property or the value of the lumber per thousand feet, the improvements, etc.

A. Well, on account of the continued poor market in lumber it was not worth as much as it was in 1908, in my judgment.

Q. (Mr. RIDER.) Just give me what you think it was worth.

A. Well, that would be a matter purely of opinion.

Q. I understand that.

A. There was no property of any consequence was changing hands so as to determine the market value of it. From an investment standpoint, in 1908, it was not worth near as much as it was in 1907, and in 1909 in my judgment it was worth less.

Q. Is that as close as you can get to what its market value was in September, 1909?

A. Yes. You must remember that in carrying a proposition of that character, paying taxes, insurance, care of the property and so forth, it runs up to about fifteen thousand dollars a year, and when the

(Deposition of Carl M. Johanson.)

market is such that it don't pay to operate, if you are running behind and can't operate and paying back stumpage on an investment basis you are going back—and this was the case.

Q. You say your mill was not in operation at that time?

A. I could not say whether it was or not. It was run intermittently—it was intermittently—it was started up and closed down from time to time, and that was a bad policy, because every time they started up it cost us ten thousand dollars to get their tools together, and it was very expensive—we lost our organization and it was expensive to get them together again.

Q. What would you say was the market value of the property in May, 1910? [254]

Mr. McGINN.—That is objected to on the ground that the witness is incompetent; he already testified that he cannot testify as to the market value.

A. Well, in 1910 I should say that the value of the property had shrunk a good deal more and it was worth less than it was in 1909.

Q. (Mr. RIDER.) That is as near as you can get to a valuation of it?

A. Oh, yes, due to the continued depressed condition of the lumber business and the cost of carrying it and the cost of overhead charges, such as taxes, insurance, interest, depreciation by reason of being shut down.

Q. Well, you said a while ago, in answer to a question of Mr. McGinn's that you thought its present



(Deposition of Carl M. Johanson.)

valuation was about \$250,000. Now, have those same causes which you referred to as reducing its value down to 1910, been influences which reduced it from 1910 on down to now?

A. That is the principal thing. The condition of the lumber market which has continued up to the present time with the exception of a little flurry last year, has been the cause of the depreciation, and also poor management in closing it, for one thing—opening and closing the mill at various times, which is expensive.

Q. Now, you were for a time in charge of that mill as manager? A. I was, yes, sir.

Q. During what time?

A. I was in charge from May, 1906, or from the first of June when they took possession of it until 1907; in July, I think, 1907.

Q. And then have you been in charge of it since July, 1907?

A. I was in charge of it—I looked after it for about a year.

Q. What year was that?

A. Last year. I was looking after it in an advisory capacity, a directory way, with McKenzie. [255]

Q. During the time that you owned an interest in that Gold Bar stock, have you had occasion to go out and examine the property? A. I have.

Q. And you kept yourself informed as to its condition?

A. Yes; especially while I was manager, and espe-

(Deposition of Carl M. Johanson.)

cially since—more particularly since Mr. Armstrong ceased to be manager.

Q. Who is the manager of it at the present time?

A. Mr. McKenzie.

Recross-examination.

Q. (Mr. McGINN.) Mr. Johanson, you were manager of that property from the time that it was purchased by you and the Fairbanks Banking Company up to what time?

A. I think it was July 1st, 1907.

Q. Then Mr. Armstrong was put in as manager?

A. Yes, sir.

Q. I believe you stated that on account of his management of the property you feel that the property depreciated in value. A. Yes, sir.

Q. Can you say to what extent?

A. No, I could not.

Q. Twenty-five per cent?

A. No, I could not say that—on account of other causes, the principal of which was the depressed lumber market.

Q. But under more favorable management the value of the property would have been a great deal greater, would it not, than you placed on it?

A. If it was conserved more, in my judgment.

Q. Can you estimate what that would be?

A. No, it is impossible.

Q. Now, you say that from 1907 the property has gradually declined in value? A. Yes, sir. [256]

Q. It declined in 1908, that is, it declined in 1908 from the value it had in 1907, and it declined in 1909

(Deposition of Carl M. Johanson.)

from the value it had in 1908, and it declined in 1910 from the value it had in 1909, and it declined in 1911 from the value it had in 1910, and it declined in 1912 from the value it had in 1911, and it declined in 1913 from the value that it had in 1912.

A. Well, it did not decline during the last year, because the mill, while it operated, did a little better than break even.

Q. Then up to that time you would say that it declined each year?     A. Yes.

Q. Now, you fixed the value upon this property in 1910?

A. Here is the way I based my estimate on it—the timber has been continually reduced, the standing timber, by operation; we have got a big plant up there with a small body of timber, and when that timber is cut out the investment that we carry in plant and machinery, logging railroad and so forth, is largely nill.

Q. And has there been much timber cut since 1910?

A. Yes, sir; there has been quite a lot of timber cut; I could not say just how much—the books will show that.

Q. You would consider the value of the property in 1910 greater than at the present time, would you not?

A. Certainly, there was more timber behind it.

Q. How much greater would you say—can you tell?     A. No, I could not.

Q. You would not estimate that?     A. No.

Q. Do you know that Mr. Noyes, the receiver, of-

(Deposition of Carl M. Johanson.)

ferred to sell the bank's interest in that property for \$225,000?

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent.

A. I don't know anything about it.

Q. The opinion which you have expressed in regard to the value of this property is from your own point of view? [257] A. Absolutely.

Q. What you would take for it.

A. Well, with regard to the conditions as they existed in the lumber market?

Q. During the various times? A. Yes, sir.

Q. But it is really what you would take for your investment?

A. Yes, and probably the most I could get.

Q. Well, you put in \$50,000, didn't you?

A. I put in \$60,000.

Q. And that was a considerable portion of the money which you had at that time? A. Yes.

Q. And particularly was the biggest investment which you had? A. Yes.

Q. You were a minority stockholder in the concern? A. Yes.

Q. And you did not have the management of it?

A. No.

Q. And you have felt that it has been mismanaged? A. Absolutely.

Q. And you fixed this price upon what you would have taken to have gotten out? A. Yes.

Q. When you were over there was your expenses allowed by the receiver? A. Over where?

(Deposition of Carl M. Johanson.)

Q. To Gold Bar.

A. I was allowed a salary, yes.

Q. How much were you allowed?

A. I was allowed a hundred and—

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent.

A. (Continuing.) My salary, probably, averaged one hundred and [258] seventy-five dollars a month.

Q. (Mr. McGINN.) Was that the time you went over there with Mr. Rider?

A. Well, I was in charge then.

Q. How long were you in charge then?

A. Well, I was in charge probably about a year.

Q. And you were allowed one hundred and seventy-five dollars? A. Yes.

Q. Was the mill in operation?

A. —and I want to state while this question is up, that I have spent about two-thirds of my time up there at the mill.

Q. Was Mr. McKenzie there?

A. He was there, yes.

Q. Was the mill in operation?

A. The mill was in operation, yes.

Q. I am speaking of the expenses you incurred during the time that Mr. Rider and you went over there and took these photographs; was that allowed by the receiver also?

A. Why, I had nothing to do with that; that was his business. I don't know anything about that.

Q. Well, who paid your expenses?

(Deposition of Carl M. Johanson.)

A. Well, I paid my own expenses.

Q. Were you reimbursed for it?

A. No; no more than my salary. I didn't consider I went up there on Mr. Rider's business. I was going up on the mill's business and Mr. Rider said he wanted to go up with me and that was all there was about it, and he paid his own expenses, I suppose.

Q. What were your duties as manager?

A. Looking after things, keeping the thing together.

Q. And you maintained an office here in Seattle at the same time? A. Yes.

Q. What were you doing here? [259]

A. Well I was in the bond business; but I devoted very little time to it—my partner attended to that.

Q. Mr. McKenzie had been over there in charge of the Gold Bar for some considerable time before that, hadn't he? A. No, Mr. Armstrong was in charge.

Q. You were really manager from the time Armstrong left?

A. That is, Mr. McKenzie has submitted all questions since Mr. Armstrong went, to me. There was no executive officer, according to the by-laws, that could conduct the business—I was the only one. Mr. Barnette took no interest in the business for many years, as you know, perhaps.

Q. You are a partner of Mr. Noyes, the receiver?

A. No.

Q. A stockholder with him in the mill?

A. No, sir.

Q. You were interested with him?



(Deposition of Carl M. Johanson.)

A. I was, in the early days; I have not during—I have no interest with Mr. Noyes during the time that he has acted as receiver.

Q. When did you sell—did you sell out to Mr. Noyes?     A. No, sir.

Q. Who did you sell out to?

Mr. RIDER.—Objected to as irrelevant, immaterial, incompetent, and I move to strike out all this on the same ground.

The WITNESS.—I think this is going into my own personal matters.

Mr. McGINN.—I am going to ask the questions anyway.

Q. In 1905 and 1906, you were engaged in the lumber business in Fairbanks?     A. Yes.

Q. You and Mr. Mills?     A. Yes.

Q. And you were conducting a mill?

A. Yes. [260]

Q. And then you consolidated with Mr. Noyes and with Carroll and his partner?

Mr. RIDER.—I object to this as irrelevant, immaterial and incompetent.

A. Yes, sir.

Q. (Mr. McGINN.) You then became associated in business with Mr. Noyes?

A. I was not associated with him. I was holding stock in the Tanana Mill Company, like Mr. Parker and Mills and Carroll.

Q. You were all interested in this ore concern?

A. Yes.

Q. How long did that continue?

(Deposition of Carl M. Johanson.)

A. I sold out my interest—my stock, about two years ago.

Q. To whom did you sell it?

A. I sold out to Noyes—I did not sell it myself—the money that was received from the stock went to the Scandinavian-American Bank in Tacoma. They practically sold the stock. [261]

State of Washington,  
County of King,—ss.

I, N. W. Bolster, a notary public within and for said State, do hereby certify that on the second day of March, A. D. 1914, before me, as a notary public, the testimony of the foregoing witnesses W. G. Cassells and Carl M. Johanson was taken pursuant to the notice and stipulation hereto attached; the said witnesses before testifying were by me first duly sworn to testify the truth, the whole truth and nothing but the truth; that I took such depositions accurately in shorthand and thereafter transcribed the same, and that the foregoing is a full, true and correct transcript of said shorthand notes; and I further certify that during the taking of the deposition of W. G. Cassells two documents used in connection with the examination of said witness were by me marked for identification of exhibits "1" and "2," and returned to counsel for defendant; that during the examination of the witness Carl M. Johanson certain photographs identified by and used in the examination of said witness were by me marked as exhibits "1," "2," "3" and "4" to the deposition of Carl M. Johanson



(Testimony of Sidney Stewart.)

and the same are returned herewith as part of said deposition.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal this 3d day of March, A. D. 1914.

[Seal]

N. W. BOLSTER,  
Notary Public in and for the State of Wahington,  
Residing at Seattle.

Notary's fees paid by plaintiff, \$36.75.

N. W. BOLSTER,  
Notary.

[Endorsed]: Filed in the District Court, Territory of Alaska, 4th Div. Apr. 22, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy. [262]

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**[Testimony of Sidney Stewart, for Plaintiff  
(Resumed).]**

Q. Mr. Stewart, on yesterday you produced some notes executed by Mr. Barrett, and they have been referred to—or, at least one of them—as being secured by some insurance. Will you produce the note that has been referred to as secured by insurance?

Mr. RIDER.—In view of the fact that this note is not paid, I ask permission to supply a copy of it as an exhibit, so that the original may be retained by the receiver, together with the indorsements. (Reads exhibit “O.”)

**[Plaintiff's Exhibit “O”—Note from Wm. Barrett.]**  
“\$16,950.63. Fairbanks, Alaska, June 16, 1906.

On demand, after date, for value received I

(Testimony of Sidney Stewart.)

promise to pay to the order of Fairbanks Banking Company at the office of Fairbanks Banking Company, Fairbanks, Alaska, the sum of Sixteen thousand nine hundred fifty 68/100 dollars, with interest thereon at the rate of twelve per cent per annum, both principal and interest payable in lawful money of the United States of America. Secured by fire ins., loss. Due; Demand.

WILLIAM BARRETT."

Q. Mr. Stewart, will you turn to the books showing the entry of this note on the books of the bank? (Witness turns to book.)

Mr. MCGINN.—Q. What book is that, Mr. Stewart?

A. This is the register of loans and discounts of the [263] Fairbanks Banking Company, partnership.

Mr. RIDER.—Q. What date does it appear to have been entered?

A. Under date of June 23, 1906.

Q. What payments, if any, are shown on that book upon this note, and the date of them, and what disposition is made of the note, according to the record?

Mr. CLARK.—What page are you reading from?

A. Page 40. Payments: 9/15 \$474.45; 4/1 \$2800.-00; 4.16 \$3581.15.

Mr. RIDER.—What year?

A. The year is not marked on that. 3/24/09 \$1687.45; 12/31/09 \$8407.58.

Q. Look at the books showing that entry of December 31, 1909, and show how that entry was put

(Testimony of Sidney Stewart.)

through the books, what the debits and credits are.

A. I haven't the general tickets for that.

Q. Can you find the accounts that that entry went into?

Mr. McGINN.—Your purpose is to show that that was charged off as a bad debt?

Mr. RIDER.—Will you admit that that was done on December 31, 1909?

WITNESS.—\$8,407.58 was credited to their loans and charged to a bad debt account, included in a total sum of some \$23,000 with some other items. That all was charged to the profit and loss account.

Mr. RIDER.—I want to offer in evidence the indorsements which, without reading them, are identical with the entries read from the book, excepting they do not show the December 31st credit of \$8,000.

Mr. McGOWAN.—Those payments are all made on the principal.

Mr. RIDER.—I will read them: September 15, 1906. Paid on account \$474.45. April 1, 1908, ditto \$2,800. April 16, 1908, paid [264] on principal \$3,581.15. March 24th, ditto, \$1,687.45.

Q. Now Mr. Stewart, this note says it is secured by fire insurance loss. Has the receiver in his possession the security referred to in the note?

A. No sir.

Q. Has it ever been in the possession of Mr. Noyes, as receiver? A. No, sir.

Q. Another note was referred to in the testimony of Mr. Cassels, being a Casey note of \$40. Do you remember that note? A. Yes, sir.

(Testimony of Sidney Stewart.)

Q. Have you that note?

A. Yes, sir. (Produces same.)

Q. For the purpose of identifying the note in the contract with this Casey note, signed by William Casey, I produce the note. I don't care to read it in evidence, unless you dispute that this is the note 280 referred to in the contract.

Mr. McGINN.—No, we don't dispute that.

Mr. RIDER.—Signed by William Casey and A. H. Saylor. The original note was \$45. There is a label posted on it that says \$45. Now, Mr. Stewart, do you know of demand having been made on William Casey for payment of this note? A. Yes, sir.

Q. When, as near as you can recollect?

A. I believe in 1911, in the summer of 1911 Casey was outside. I believe it was that fall of 1911 that he came in from the outside.

Q. Was the note paid? A. No, sir.

Q. What did Mr. Casey do?

A. He refused to pay the note.

Q. Why?

A. I believe he said that Barnette should have paid the note. [265]

Mr. RIDER.—With the right to supply a copy of this note, I offer it in evidence (Reads same):

“\$45.00. Fairbanks, Alaska, March 31, 1905.

For value received, 60 days after date, we promise to pay to the order of Fairbank Banking Company at their bank office in Fairbanks, Alaska, forty-five dollars in gold coin of the United States of America of the present standard value, with interest thereon

(Testimony of Sidney Stewart.)

at the rate of twelve per cent per annum from maturity until paid. If not paid when due, the interest to be added to and become a part of the principal, and the whole sum of both principal and interest to bear interest thereafter at 12 per cent per annum, interest to be paid———, and if not so paid, the whole sum of both principal and interest to become immediately due and collectible at the option of the holder of this note. In case suit or action is brought to collect this note or any portion thereof, we promise to pay, in addition to the costs and disbursements provided by statute, a reasonable amount of attorney fees in said suit. All indorsers, sureties, guarantors and assignors severally waive presentment for payment, protest, and notice of protest for non-payment of this note, and all defenses on the ground of any extension of time of its payment that may be given by the holder or holders of them or either of them or the maker or makers thereof.”

(Signed)

WILLIAM CASEY

A. C. SAYLOR.”

No. 280. [266]

Mr. RIDER.—Q. On yesterday afternoon you were examined respecting certain items which had been charged to bad debt accounts of the partnership, and also in reference to charges to profit and loss by the corporation, of those items. Now, I wish you would again refer to that profit and loss account of December 31, 1909 and tell the Court, in addition to the notes that were included in the bad account of the partnership, what other notes were transferred by

(Testimony of Sidney Stewart.)

the partnership to the corporation and subsequently charged off on December 31, 1909 by the corporation.

Mr. CLARK.—We object to the form of the question, because there is no such account as “bad debt account.” The account he refers to is “doubtful account.”

Mr. RIDER.—Let Mr. Stewart state whether that is correct or not.

A. The Fairbanks Banking Company, a partnership, carried an account they called a “doubtful account”; the Fairbanks Banking Company, a corporation, charged certain loans to a bad debt account, and then the bad debt account was charged to profit and loss. The corporation carried no doubtful [267] account.

Mr. RIDER.—Q. Having those three accounts in mind; the doubtful account of the partnership, and bad debt account of the corporation, and the profit and loss account of the corporation, tell the court what notes went into those accounts which were included in the notes sold by the partnership to the corporation, and the dates when they went in there.

A. Of the notes taken by the Fairbanks Banking Company from the partnership, on March 16, 1908, there was later charged to profit and loss an amount of \$22,654.08.

Q. The date of that?

A. Well, there are several different dates. The first—(Int.)

Q. You can show in your own way, then.

A. The bulk of those items were charged on



(Testimony of Sidney Stewart.)

December 31, 1909. On January 6, 1909, there were part of them charged—There was one item I recollect now.

Q. Was the first of them charged off on December 31, 1909?

A. The bulk of them were charged off on December 31, 1909, but there were others on other dates.

Q. Specify the notes you refer to, and the dates they were charged off, having in mind the notes transferred to the corporation by the partnership.

A. There is quite a long list to read, and there is only one other date outside of that.

Q. Give us the note.

A. That is on September 6, 1910.

Q. Commence at the beginning. The first notes that were charged off that are included in this contract. A. Number 1054, J. Worgan.

Mr. RIDER.—In the petition in paragraph 9 it is correctly stated as J. Worgan, but in the list it is listed as J. Morgan. [268] A. That is for \$200.

Q. The next note is number 1225. That is the Barrette note.

A. The amount that was charged to profit and loss was \$8,407.58. That was held at that time at \$16,476.18.

Mr. McGinn—Q. What date was that charged off?

A. That was December 31, 1909.

Note number 1376, Fred Schaupp. That was held at that time at \$4,420. There was \$3,785.22 charged to profit and loss December 31, 1909.

Number 1435. Brazeau. Held at that time at

(Testimony of Sidney Stewart.)

\$400. That was held at \$400, and \$102 was charged to profit and loss September 6, 1910.

The next note is number 1530. This is the Fairbanks Commission House, Fenwick & Eachen.

Q. What is the date of that?

A. This is for \$2,000.

Q. Have you the Fenwick note there?

A. This is for \$2,000. This is the note signed by George Fenwick.

Mr. McGINN.—Does your question go to the notes that were charged off by the partnership in 1907?

Mr. RIDER.—No. I am asking about the notes that were charged off [269] by the corporation, which were sold by the partnership to the corporation.

A. This was carried at \$2,000, and charged to profit and loss as \$2,000 on December 31, 1909.

Number 1891, Fairbanks Commission \$33.95. This was carried at that time as \$33.95, and charged off \$33.95 to profit and loss on December 31, 1909. This is a memorandum charge, not signed by anybody, but in the name of Fairbanks Commission; written on the note: Number 1544, James Frost, carried at that time at \$750 and \$750 was charged to profit and loss December 31, 1909.

Also number 1733, James Frost, carried at \$100, charged to profit and loss on December 31, 1909, \$100.

Number 1721, W. F. Green. It was carried at \$1,332.74, and the same amount charged to profit and loss December 31, 1909.

Number 1854, James Gallagher. It was carried at



(Testimony of Sidney Stewart.)

that time as \$154 and charged to profit and loss \$133 on December 31, 1909.

Number 2007, Tharp, Rusk & Smith at \$2500, and the same amount charged to profit and loss on December 31, 1909.

Number 2099, memorandum note, News Publishing Company. Carried at that time at \$262.50. There was \$162.50 of principal and interest of \$53.80 both amounts charged to profit and loss. I mean the total *it* \$216.30 instead of \$262.30.

Mr. McGINN.—What is the date of the note?

[270]

A. December 7, 1907.

Q. When was it due?

A. There is no due date on it; simply a memorandum note; just a memorandum, signed by nobody.

Number 1163, Cathcart. Carried at that time—  
(Interrupted.)

Mr. McGINN.—We object as that is not included in the list.

The COURT.—Overruled.

A. —at \$410. There was \$227 charged to profit and loss on December 31, 1909.

Number 1304 and number 505 and number 2115 were the Sorenson notes, Royal Hotel. Carried at that time, those three items, at \$4,220.79. And the same amount charged to profit and loss, and there was a credit to profit and loss of \$2133.10, which would be \$1889.69, loss.

Mr. CLARK.—Q. When was it charged off?

(Testimony of Sidney Stewart.)

A. That was January 6, 1909. That completes the list.

(Here the Court takes a recess until 1:30 P. M. today.) [271]

Mr. RIDER.—Now, I desire to read, and offer in evidence, a part of minutes of the special meeting of the board of directors of the Fairbanks Banking Company held on the 16th of March, 1908. I will offer and read as marked on the first page.

Mr. McGINN.—No objection.

(Marked Plaintiff's Exhibit "T.")

Mr. RIDER.—The portion I desire to read is as follows. (Reads):

**[Plaintiff's Exhibit "T"—Part of Minutes of Special Meeting of Board of Directors of Fairbanks Banking Co., March 16, 1908.]**

"Minutes of special meeting of board of directors, Fairbanks Banking Company. A special meeting of the board of directors of the Fairbanks Banking Company was held at the office of McGinn & Sullivan upon the 16th day of March, 1908, at the hour of ten o'clock A. M. pursuant to a notice personally served upon the directors as is provided in Sec. 7 of Article II of the By-Laws.

Present: E. T. Barnette, president. B. R. Dusenbury, Secretary. C. E. Claypool, D. H. Jonas, John Jesson, Dan Ryan, M. H. McMullen, Hans Stark.

The secretary informed the meeting that he had personally served notice upon each of the members of the board of directors, which said notice specified the time and place of holding said meeting, and that

(Testimony of Sidney Stewart.)

the object thereof was to confer upon Mr. R. C. Wood, Cashier of Fairbanks Banking Company, authority to execute notes for said Fairbanks Banking Company, in favor of Dexter-Horton Company of Seattle, to the amount of two hundred thousand dollars, and to do such other acts and things as are necessary to complete arrangements for an overdraft and credit with said Dexter-Horton Company.

The secretary then read a telegram from R. C. Wood which was as follows:—

“Telegraph Dexter-Horton Company my authority to [272] sign notes to the extent of two hundred thousand dollars.”

Upon motion of D. H. Jonas, seconded by John Jesson it was RESOLVED, that the said R. C. Wood be and he hereby is authorized for and on behalf of the Fairbanks Banking Company to execute notes for the Fairbanks Banking Company in favor of Dexter-Horton Company to the amount of Two Hundred Thousand Dollars, and to do such other acts and things as are necessary to complete arrangements for a credit or overdraft with said Dexter-Horton Company, as he the said R. C. Wood shall see fit.

All the directors present voting in favor of said resolution the same was declared unanimously carried.”

Q. Have you with you, Mr. Stewart, the letter from R. C. Wood to the Dexter-Horton Company and the notes executed by him in pursuance to this resolution?

(Testimony of Sidney Stewart.)

A. Yes. (Hands same to Mr. Rider.)

Mr. RIDER.—For the purpose of showing that R. C. Wood entered upon his duties as cashier as early as March 16, 1908, we offer in evidence these four notes.

Mr. McGINN.—We contend that the performance of a single act of this kind, would not be entering upon the discharge of his duties as cashier. The cashier is the managing agent of the bank, and he is not here.

But we will admit that there are four notes, aggregating in all \$200,000; one executed March 16, 1908, for \$75,000, one March 17, 1908, for \$25,000, one April 21, 1908, for \$50,000 and one May 13, 1908, for \$50,000, and all marked “paid.” All of them signed: “Fairbanks Banking Company, R. C. Wood, Cashier.”

Mr. RIDER.—That is sufficient, then, and we will withdraw the offer of the notes as exhibits. [273]

Mr. RIDER.—I now offer for the purposes of the record, a letter—

Mr. McGINN.—One moment. In order that there may be a clear understanding of the matter, one of those notes purports to have been signed on the 13th of May. Mr. Wood at that time was here. The dates were left in blank, as Mr. Wood informs me, and subsequently filled in.

Mr. RIDER.—They were signed upon the 16th of March?

Mr. R. C. WOOD.—I don't remember if it was the 16th, but around there somewhere.

(Testimony of Sidney Stewart.)

Mr. RIDER.—And all left with the Dexter-Horton Company?

Mr. WOOD.—Yes, about that date.

Mr. RIDER.—I now offer in evidence a letter signed by R. C. Wood, addressed to the Dexter-Horton Company, dated Seattle, Washington, March 20, 1908, signed “R. C. Wood, Cashier.”

The COURT.—It may be received, if there is no objection.

(Marked Plaintiff's Exhibit “U.”)

Mr. RIDER.—(Reads exhibit “U”):

**[Plaintiff's Exhibit “U”—Letter from R. C. Wood to Dexter-Horton & Co.]**

“Seattle, Washington, March 20, 1908.

Dexter-Horton & Co., City.

Gentlemen: This will be your authority to honor any drafts that may be presented to you for payment, issued by the Fairbanks Banking Company, Fairbanks, Alaska, and drawn on either the Scandinavian-American Bank or the Seattle Washington Bank. The amount of outstanding drafts drawn on either of the above banks do not aggregate over \$2500.00. Charging same to our account.

Yours very truly,

R. C. WOOD,  
Cashier.”

I next offer in evidence a telegram sent by the Fairbanks Banking Company to R. C. Wood, dated January 7, 1908.

Mr. McGINN.—No objection. (Marked Plaintiff's Exhibit "V.") [274]

Mr. RIDER.—(Reads exhibit "V"):

**[Plaintiff's Exhibit "V"—Telegram from Fairbanks Banking Co., to R. C. Wood.]**

"Fairbanks, Alaska, January 7, 1908.

R. C. Wood. Care Kerr & McCord, Mutual Life Building, Seattle, Wash.

Refer to our telegram 27th Bank is being organized as outlined will be incorporated laws Nevada capital stock \$300,000 Will not be paid fully until July 1st New bank will take assets old concern paying us approximately \$288,000 Barnette will leave \$200,000 on deposit for a year without interest We will agree to take 88,000 in stock old bank will retain doubtful resources approximately 60,000 which are not included by committee in amount of assets turned over also accrued interest on all loans to Feb. 15th when new bank will take over business will have difficulty selling stock.

Signed: Fairbanks Banking Co."

I offer in evidence a telegram from the Fairbanks Banking Company to R. C. Wood, dated December 27, 1909, and then I offer in evidence a telegram from R. C. Wood to the Fairbanks Banking Company dated apparently January 6, 1908.

Mr. McGINN.—We make the general objection that they are irrelevant and immaterial, private communications between Mr. Wood and the Fairbanks Banking Company and Mr. Hill, and not binding upon the defendants.



The COURT.—They may be admitted, subject to the objection.

(Marked Plaintiff's Exhibits "W" and "X" respectively.)

Mr. RIDER.—(Reading Plaintiff's Exhibit "W"):

**[Plaintiff's Exhibit "W"—Telegram from Fairbanks Banking Co. to R. C. Wood.]**

"Fairbanks, Alaska, December 27, 1907.

R. C. Wood, Care Scan American Bank, Seattle, Wash. Refer to your telegram 22nd. It is reported mine operators here will organize bank. Everything is favorable for such venture To head this off have every reason to believe can reorganize our bank. Selling stock to operators and [275] local merchants new bank to take over assets at an arbitrated valuation. What is your idea concerning foregoing? Have received a letter from First National Bank, San Francisco, California, very friendly before the return of you do you think well of going San Francisco Try to arrange for overdrafts. McGinn suggests Metson would help you Northern Commercial Company, San Francisco might also assist. Certificate plan is working well. Lack of exchange only inconvenience What prospects is there of Scandanavian American Bank Seattle making transfer Tanana Electric in the near future or shall we require sue?

Fairbanks Banking Company."

(Reads translation Plaintiff's Exhibit "X"):

[Plaintiff's Exhibit "X"—Telegram from R. C. Wood to Fairbanks Banking Co.]

"Seattle, Jan. 6. Fairbanks Banking Company,  
Fairbanks, Alaska.

In reply to your telegram of 27th. If you can organize can we obtain an interest in? Will leave the matter entirely in your hands. This is signed  
R. C. WOOD."

Mr. McGinn, will you admit that Mr. Wood was here in Fairbanks on the 14th of April? If not, we will have to introduce some records, showing that he was here April 14, 1908.

Mr. McGINN.—We will admit that he was here on that date.

Mr. RIDER.—Now, I wish to read from Plaintiff's Exhibit "F-16," which has been introduced in evidence, being a letter addressed to R. C. Wood and signed "Jim" as follows Reads):

"Fairbanks, Alaska, January 8, 1908.

R. C. Wood Esq, c/c Kerr & McCord, Mutual Life Building, Seattle, Wash.

Dear Dick:

The new concern will take over the business on the basis of the statement prepared by the committee [276] of investigation as to the financial condition when the bank closed its doors on December 12th. They are agreeable that we shall have, that is, Captain, yourself, and myself, approximately \$88,000 worth of stock out of the \$300,000 which would be the total subscription and Captain has agreed to leave the \$200,000 on deposit with the new bank for



(Testimony of Sidney Stewart.)

one year. One of the main reasons for this is so that the new concern will be protected should Causten get judgment and that judgment might affect the value of the Gold Bar stock presently in the hands of the Scandinavian-American Bank. \* \* \*

Since we started to work on this scheme of reorganization several parties, among them Mr. Hammel of Ester Creek, have endeavored to have the stockholders of the First National Bank take stock in our new bank and gradually wind up the business of the First National Bank which we understand is not in particularly good shape. We made them a proposition like this: that we would take less stock in the new concern, say \$50,000, instead of \$88,000, and sell the stockholders of the First National Bank an equal amount, leaving \$200,000 to be subscribed by the operators and merchants or increase the capital stock to \$350,000, taking \$75,000 and the stockholders of the First National Bank taking a like amount." \* \* \*

As I said before our main trouble will be to distribute the stock fairly as the handful of men at the meeting the other evening subscribed their names for nearly \$200,000 worth of stock including, of course, \$88,000 for Captain, you and me. We, of course, had them subscribe on the understanding that should the stock [277] be oversubscribed we may have to ask them to reduce their subscriptions."

Q. Now, Mr. Stewart, will you turn to the books of the bank showing their capital stock account, that

(Testimony of Sidney Stewart.)

is the Fairbanks Banking Company on March 16, 1908?     A. Yes, sir.

Q. What does it show on that date?

A. Under date of March 14, 1908, balance credit \$300,000.

Q. Mr. Stewart, when capital stock of the corporation is sold, how is it entered in the capital stock account, as a credit or as a debit?

A. There was no entry made in capital stock account.

Q. How did they keep it?

A. They continually carried their capital stock at \$300,000. They had another account of treasury stock, in which said entries were made.

Q. Then turn to the treasury stock account. Now, what is the first entry you find there?

A. March 14, 1908, balance \$97,800.

Q. Now, when stock is sold which was sold by the corporation, how did they enter it upon their books, as a charge or as a credit?

A. It would be credited to treasury stock.

Q. And when stock was brought back by, or surrendered to the corporation, how would they enter it?     A. It would be charged to treasury stock.

Mr. RIDER.—I believe for convenience at this time I will introduce in evidence the debit and credit entries of the treasury stock account. I will say to counsel and to the Court that if it will convenience you any we will make a typewritten copy of this.

Mr. MCGINN.—We will object that they are not binding on these who were not directors at the time

(Testimony of Sidney Stewart.)  
of the surrenders. [278]

Mr. RIDER.—Q. I would like to have read to the stenographer the debit and credit charges in the treasury stock account as they appear.

A. Debits:	June	30, 1908	\$13,000.
	July	15,	100.
	July	20,	6,800.
	July	23,	500.
	July	29,	1,000.
	August	5,	2,000.
	August	6,	500.
	August	8,	1,000.
	August	14,	1,000.
	August	18,	1,500.
	October	23,	200.
	November	19,	11,000.
	November	25,	1,000.
	January	12, 1909,	200.
	February	9,	200.
	February	19,	500.
	June	10,	1,000.
	September	21,	1,000.
	October	28,	1,500.
	November	10,	500.
	November	23,	500.
	January	18, 1910	500.

On the credit side:

	March	16, 1908	\$ 3,800.
	March	17,	1,000.
	March	18,	100.
	March	20,	200.

(Testimony of Sidney Stewart.)

March	23,	7,000.
May	8,	100.
June	10,	200.
May	14, 1910	1,000.

Q. Have you read the debit of October 25, 1910?

A. No. That is not in this book. On that date they were carrying their general accounts in the general statement book of the Washington-Alaska Bank, formerly *Washington-Alaska Bank of Washington*.

Q. The last item was January 18, 1910, and any item since that date would be on the other set of books? A. On the other set of books.

Q. You didn't bring them up this afternoon?

A. No.

Mr. RIDER.—We will ask the right to show that other item later on.

Q. Now, the first deposit that you read, of June 30, 1908, \$13,000. [279] Can you tell from the books and records that you have there what that debit arose out of? A. Yes, sir.

Q. From what do you read?

A. There is a debit entry—(Interrupted.)

Q. What is the paper; from a debit slip?

A. A general debit slip in the *filed*. (Attorneys for defendants examine said slip.)

Mr. McGINN.—We desire at this time to interpose an objection to all of this testimony pertaining to the purchase of this stock by the corporation, for the reason that it is not shown that the stockholders of said corporation, or the corporation itself ever ob-

(Testimony of Sidney Stewart.)

jected to the same *of* the same in any way, and that no objection was ever made to the sale until the institution of this action; that it is apparent from the proceedings that have taken place in this case that the objections that are being urged against the purchase of this stock by the receiver are for the creditors of the Washington-Alaska Bank of Nevada, and, as to this item of November 3, 1908 (means June 30, 1908, probably) amounting to \$13,000, the then directors could not be held responsible to the creditors of the Washington-Alaska Bank some two or three years afterwards. It is not shown that there were any existing creditors at this time, and it is only the existing creditors at that time that can complain against the action of the board of directors. I desire the objection to run through each separate item.

The COURT.—The objection will be overruled at present. The same point is involved in the other matter that has been submitted to the Court, at least, it is involved in that.

Mr. CLARK.—That objection goes to all of the defendants represented here. [280]

The COURT. — Yes. (Defendants except.)  
(Marked Plaintiff's Identification 4.)

Mr. RIDER.—Q. Now, Mr. Stewart, use the debit slip which you referred to, and which has been marked for identification as Plaintiff's Identification Number 4, and tell me what that debit of \$13,000 on June 30, 1908, to treasury stock, is?

A. It is a debit to treasury stock, R. C. Wood stock

(Testimony of Sidney Stewart.)

\$13,000. Initialed "D."

Q. Is there any corresponding credit for that debit?     A. Yes, sir.

Q. What is the credit?

A. A certificate of deposit was issued for that amount. In the certificate of deposit register, under date of June 30, 1908, a certificate of deposit was issued, numbered 577, R. C. Wood, \$13,000.

Mr. McGINN.—We admit that.

Mr. RIDER.—Do you admit that you got that \$13,000?

Mr. McGINN.—Yes, sir.

Mr. RIDER.—You admit that the certificate of deposit was issued on June 30, 1908, and that it was subsequently cashed?

Mr. McGINN.—And that it was paid that day?

WITNESS.—It was not paid on June 30th.

Mr. RIDER.—Q. What date does it show that it was paid?

A. On July 20th that certificate was cancelled, and a new certificate for \$10,000 numbered 581 was issued, and \$3,000 was placed to Mr. Wood's credit under date of July 20, 1908. No, the new certificate was issued on July 20, and was presented on August 3d and placed to his credit.

Mr. RIDER.—The admission will go to the effect that Mr. Wood subsequently cashed this \$13,000 certificate of deposit, and got the money on it?

Mr. McGINN.—Oh, yes. [281]

Mr. RIDER.—Q. Now, Mr. Stewart, on June 30, 1908, in what amount were the total assets of the



(Testimony of Sidney Stewart.)

Fairbanks Banking Company as shown by their books?     A. A total of \$1,251,924.96.

Q. What were their total liabilities on that date, including capital stock?     A. \$1,290,843.43.

Q. On that day, how much capital stock was outstanding?     A. \$201,600.

Q. Have you got a computation, based upon the records of the bank, of the amount of past due paper held by the bank on June 30, 1908, and which is now in the hands of the receiver and unpaid?

A. Yes, sir.

Q. What was that amount?

Mr. McGINN.—We object to that as immaterial whether it was past due or not.

(Objection overruled. Defendants except.)

A. The total amount is \$75,699.61.

Mr. RIDER.—That is the amount which is now in his hands that was past due on that date.

Mr. McGINN.—Will you furnish us a list of that?

Mr. RIDER.—I think Mr. Stewart can furnish you a list when you come to cross-examine him, if you want it.

Mr. McGINN.—I think we ought to be apprised of these things. We want to know what he bases this on.

The COURT.—He says he has examined the books and that is what they show, and it is competent testimony. Of course, you have a right to cross-examine him on it.

Mr. RIDER.—Q. As shown by the books of the



(Testimony of Sidney Stewart.)

company on that date, [282] June 30, 1908, among their resources did they have any item of stocks?

A. Yes, sir.

Q. What was that item? A. \$341,949.

Q. Do you know what stocks that was?

A. Gold Bar Lumber Company.

MR. RIDER.—I wish to read in evidence from the minutes of the meeting of the board of directors of the Fairbanks Banking Company held on July 13, 1908, those portions which I will submit to counsel and mark. (Refers to Plaintiff's Exhibit "Y.") (Reads):

"Minutes of the meeting of the board of directors of the Fairbanks Banking Company. Fairbanks, Alaska, July 13, 1908. The regular monthly meeting of the board of directors of the Fairbanks Banking Company was held at the office of the corporation at Fairbanks, Alaska, at 8 o'clock P. M. E. T. Barnette, President, presiding. B. R. Dusenbury, Secretary, present. Members present: Robinson, Jesson, Flygar, Jonas, Ryan, Barnette, Anderson. James W. Hill, Vice-president, was also present.

Report of officers. The presiding submitted a written report in detail showing the condition of the affairs of the bank on July 11, 1908. The report was examined in detail, and, on motion, duly made and seconded, it was ordered filed."

Q. What is the next item of charge. I will go on with the stock surrender (This to the Court.).

THE COURT.—Very well.

MR. RIDER.—Q. The next item of charge to the

(Testimony of Sidney Stewart.)

treasury stock account? [283] A. July 15th.

Q. In what amount? A. \$100.

Q. Will you examine the records and tell me what that relates to?

(Discussion as to whether the answers deny the various stock surrenders.)

Q. What is that item of \$100.00 charged to treasury stock on July 15, 1908, to which you have referred?

A. That is charged to treasury stock; P. B. Walsh, \$100, on a regular debit ticket initialed "D."

Mr. McGINN.—We now object, and move that this be stricken out, because it is not shown that the directors had any knowledge of it at all.

The COURT.—Motion denied. If the evidence is not sufficient to bring it home to the board of directors, they would not be liable, but I think it might be properly considered on the whole case.

Mr. RIDER.—Q. What is the next charge after July 15th? A. Under date of July 20th, \$6,800.

Q. What makes up that item?

A. The charge to treasury stock: Thomas \$1,000, McBride \$2,000, Letnis \$2,000, Larson \$1,000, Johnson \$200, Tobin \$200, Cribb \$500, Wing \$200, Nordale \$500, Barrett \$1,000. Total \$6,800. On regular charge ticket initialed "D."

Q. Mr. Stewart, what was the total amount of the assets of the Fairbanks Banking Company as shown by their books on July 20, 1908, the date when that large charge that you have read was made to treasury stock? A. The total assets was \$1,208,796.60.

Q. What was the total liabilities?

(Testimony of Sidney Stewart.)

A. The total liability was \$1,229,489.68 [284]

Q. Have you made a computation for the purpose of determining the amount, if any, of past due paper which the Fairbanks Banking Company held as an asset on July 20, 1908, and which is now in the hands of the receiver, unpaid? A. Yes, sir.

Q. What is the total amount of that?

A. The total past due July 20th, and unpaid, is \$95,162.36.

Q. On July 20, 1908, did the Fairbanks Banking Company, as an asset carry any item of stocks?

A. Yes, sir.

Q. What was that item? A. \$341,949.

Q. What was that stock?

A. Gold Bar Lumber Company.

Q. Now, you may take your next item of charge?

A. July 23d, \$500.

Q. What does that charge arise from?

A. E A. Suter returned, \$500. Regular charge ticket, initialed "D."

Q. What is your next item? A. July 29th.

Q. What is the amount? A. \$1,000.

Q. What makes up that item?

A. Debit to treasury stock, Samuel R. Weiss, 10 shares refunded. \$1,000, initialed "D."

Q. What were the total assets of the Fairbanks Banking Company on July 29, 1908?

A. \$1,251,753.08.

Q. What was their total liability?

A. \$1,267,411.60. [285]

Q. How much capital stock did they have outstand-

(Testimony of Sidney Stewart.)

ing on that date?     A. \$193,200.

Q. I didn't ask you the amount they had outstanding on July 20th in capital stock.     A. \$194,700.

Mr. HEILIG.—Q. On July 29, 1908, how much?

A. \$193,200.

Mr. RIDER.—Q. On July 29, 1908, what amount, if any, of past due paper was carried as an asset by the Fairbanks Banking Company, which is now in the hands of the receiver, unpaid?

A. That will require some figuring on my part.

(Consultation between Mr. Rider and witness.)

Mr. RIDER.—I will withdraw the question for the present.

Q. Have you made a computation showing the total amount of past due paper held by the Fairbanks Banking Company on July 29, 1908, and which was never paid?     A. Yes, sir.

Q. What is that amount?     A. \$94,162.36.

Q. What is your next item of charge to treasury stock?     A. On August 5, 1908.

Q. What is that charge?     A. \$2,000.

Q. What does that consist of?

A. Debit treasury stock No. 11, Osmond Olsen, through J. A. Jesson, 20 shares, \$2,000. Initialed "D."

Q. What was the total amount of the assets of the Fairbanks Banking Company as shown by their books on August 5, 1908?     A. \$1,226,674.20.

Q. What were their total liabilities on that date?  
[286]     A. \$1,248,192.51.

Q. What was their outstanding capital stock on

(Testimony of Sidney Stewart.)

that date?      A. \$191,200.

Q. What amount, if any, of past due paper was in the hands of the Fairbanks Banking Company as an asset on August 5, 1908, and which was never paid?

A. \$94,312.36.

Q. Among the assets of the Fairbanks Banking Company on August 5, 1908, is an item of stocks \$341,949. What is that?

A. Gold Bar Lumber Company.

Mr. RIDER.—In order not to repeat that, will you concede that that runs through as the item of stock from this on to the time the bank's first receivers were appointed?

Mr. McGINN.—Yes.

Mr. RIDER.—And that may be treated as I have treated it here by the questions, as to each of the statements;—that item of stock of \$341,949 relates to Gold Bar?

Mr. McGINN.—Yes.

Mr. CLARK.—Yes, reserving our objection to its materiality.

Mr. RIDER.—Oh, certainly.

Q. The next item of charge now, Mr. Stewart?

A. August 6th, debit treasury stock, number 24, A. J. Williams, cancelled and returned to treasury 5 shares, \$500, initialed "D."

Q. And the next?      A. August 8th, \$1,000.

Q. What is that?

A. Debit treasury stock, R. R. Myers, refund 10 shares, \$1,000. Initialed "J."

Q. Your next?      A. August 12th, \$500. [287]

(Testimony of Sidney Stewart.)

Q. What is that made up of?

A. Debit treasury stock, Dave Courtemanche, refund \$500. Initialed "J."

Q. When you say, initial so-and-so, you are speaking of the initial that is on the debit slip?

A. The initial on the debit ticket, yes.

Q. Your next charge? A. August 14, \$1,000.

Q. What is that?

A. Debit treasury stock refund, Keyes \$1,000. Initialed "D."

Q. Now, on August 14, 1908, what were the total assets of the Fairbanks Banking Company as shown by their books? A. \$1,292,225.19.

Q. And their total liabilities? A. \$1,311,292.63.

Q. How much capital stock was outstanding?

A. \$188,200.

Q. How much past due paper did the Fairbanks Banking Company have on hand as an asset on August 14, 1908, and which was never paid?

A. \$95,042.36.

Q. What is your next charge to treasury stock?

A. The next entry is on the 18th.

Q. Of what?

A. It shows here several following dittoes of the date of August but I think that is a mistake in the date, and that it should be September. The ticket I think I can find in September tickets, which I have not here.

Q. You haven't the debit ticket for that?

A. Not for September 18th, \$1500. If you are going all the way through these, I had better get the



(Testimony of Sidney Stewart.)

rest of these tickets. [288]

(Witness withdraws from courtroom, and shortly returns.)

Q. I believe you testified about the debit of September 18th?

A. That is an error on the books here.

Mr. HEILIG.—We object to the statement of the witness about an error on the books.

Mr. RIDER.—Q. What does that debit slip show?

A. The debit slip is of date September 18, 1908, debit treasury stock, Oscar Goetz \$1,000, initialed "J." Debit treasury stock Vedine refund \$500, initialed "J."

Q. Now, on September 18, 1908, what were the total assets of the bank as shown by its books?

A. \$1,462,874.27.

Q. And what were the total liabilities?

A. \$1,473,635.80.

Q. How much capital stock was outstanding on that date? A. \$186,700.

Q. What amount, if any, of past due paper was carried by the bank as an asset on September 18, 1908, and which was never paid? A. \$94,512.36.

Q. What is your next item of charge to treasury stock? A. Under date of October 23, \$200.

Q. What does that relate to?

A. Debit treasury stock, McDonald stock, 2 shares released \$200. It is initialed "D."

Q. On October 23, 1908, what were the total assets of the bank as shown by its books?

A. \$1,478,500.09.

(Testimony of Sidney Stewart.)

Q. What were the total liabilities?

A. \$1,484,836.66.

Q. What was the amount of the capital stock outstanding on that [289] date? A. \$186,500.

Q. What amount, if any, of past due paper was carried as an asset on that date by the bank, which was never paid? A. \$94,437.36.

Q. What is the next charge to treasury stock?

A. November 19th.

Q. What is it? A. \$11,000.

Q. What does it consist of?

A. Debit treasury stock, number 25, B. E. Johnson, \$1,000; number 59, Strandberg, \$10,000 refunded; total \$11,000. Initialed "D."

Q. That is November 19th, is it not?

A. Yes, sir.

Q. On that date what were the total assets of the bank as shown by its books? A. \$1,237,256.46.

Q. What were its total liabilities?

A. \$1,245,876.02.

Q. What amount of capital stock was outstanding? A. \$175,500.

Q. What amount of past due paper, if any, was carried as an asset by the bank on that date, which was never paid? A. \$94,437.36.

Q. What is your next charge?

A. November 25th, \$1,000.

Q. What is that item?

A. Debit treasury stock, Emma Strandberg, \$1,000. Initialed "J."

Q. On that date, November 25th, what was the

(Testimony of Sidney Stewart.)

total assets of the company?

A. \$1,177,594.61. [290]

Q. What were its liabilities?

A. \$1,184,802.79.

Q. And the outstanding capital stock?

A. \$174,500.

Q. What amount of past due paper was carried as an asset by the bank on that date, which has never been paid? A. \$94,437.36.

Q. What is your next charge?

A. January 12, 1909, \$200.

Q. To what stock does that relate?

A. Debit treasury stock, F. E. Johnson, \$200.

Initialed "J."

Mr. RIDER.—It is written in the petition December 12, 1909.

Q. On January 12, 1909, what were the total assets of the corporation as shown by its books?

A. \$1,054,028.46.

Q. And the total liabilities? A. \$1,053,638.36.

Q. The amount of capital stock outstanding?

A. \$174,300.

Q. What amount of past due paper was carried by the bank on that date, which has never been paid?

A. \$93,432.19.

Q. What is the next charge?

A. February 9, 1909.

Q. What is it? A. \$200.

Q. What does it relate to?

A. Debit treasury stock, number 10, John Clifford, 2 shares redeemed, \$200. Initialed by "D."

(Testimony of Sidney Stewart.)

Q. What is your next charge?

A. February 19, \$500.

Q. What makes it? [291]

A. Debit treasury stock, George Jestel, \$500. Initialed "J."

Q. On February 19, 1909, what were the total assets of the bank as shown by its books?

A. \$1,013,747.55.

Q. What were its total liabilities?

A. \$1,014,439.45.

Q. How much capital stock was outstanding?

A. \$173,600.

Q. What amount of past due paper was carried by the bank as an asset which was never paid?

A. \$95,057.80.

Q. What is your next charge to treasury stock?

A. June 10th, \$1,000.

Q. To what does it relate?

A. Debit treasury stock, Hart & McConnell, \$1,000. Initialed "J."

Q. On June 10, 1909, what were the total assets of the bank, as shown by its books? A. \$1,146,380.14.

Q. And what were its total liabilities?

A. \$1,147,835.97.

Q. Now, on that date, what was the item of stocks carried by the bank? A. \$400,199.

Q. What did that consist of?

A. That consisted of \$341,949, being the Gold Bar, and \$58,250, First National Bank.

Q. On that date, June 10, 1909, what amount of past due paper was carried by the bank, which has

(Testimony of Sidney Stewart.)

never been paid?

A. The total past due paper and unpaid is \$101,-772.80.

Q. The next charge to treasury stock?

A. September 21, 1909, \$1,000. [292]

Q. What does that consist of?

A. Debit treasury stock, number 21, 5 Louis Enstrom, #22, 5 Oscar Enstrom; total \$1,000. Initialed by "D."

Q. On that date, September 21, 1909, what were the total assets of the bank, as shown by its books?

A. \$1,470,418.19.

Q. And its total liabilities? A. \$1,447,386.16.

Q. Total amount of capital stock outstanding?

A. \$171,600.

Q. Tell the total amount of stocks carried by the company as an asset. A. \$651,824.

Q. Composed of what?

A. There was \$341,949 Gold Bar Lumber Company, \$250,000 Washington-Alaska Bank, and \$59,-875 First National Bank.

Q. What amount of past due paper was carried by the bank on that date in its assets, and which have never been paid? A. \$124,716.52.

Q. What is the date of the next charge to treasury stock? A. October 28, \$1500.

Q. Consisting of what?

A. Debit treasury stock; D. Michie account Parkin stock \$1,000. Aleck Cameron \$100. Edith McCormick \$200, J. W. McCormick \$200. Total \$1500. Stock notes credited. B. R. Initialed by "J."

(Testimony of Sidney Stewart.)

Q. On October 28, 1909, what was the total amount of assets of the bank, as shown by its books?

A. \$1,324,913.53.

Q. And the total amount of liabilities?

A. \$1,298,055.85.

Q. Amount of capital stock outstanding?

A. \$170,100. [293]

Q. What stocks were carried by the bank on that date? A. \$651,824.

Q. They constitute the same stocks that made up that item before? A. Yes, sir, the same stocks.

Q. What amount of past due paper was carried by the bank as an asset on that date, and which has never been paid? A. \$124,523.45.

Q. What is the next charge to treasury stock?

A. November 10th, \$500.

Q. What is it made up of?

A. Debit treasury stock, Francis H. Taylor, cancelled, \$500. Initialed by "J."

Q. On what date, November 10th, 1909, what were the total amount of assets of the bank, as shown by its books? A. \$1,313,853.06.

Q. And its total liabilities? A. \$1,304,956.31.

Q. Its outstanding capital stock? A. \$169,600.

Q. And it had as an asset, stocks in a certain amount? A. \$651,824.

Q. They are the same stocks that you described before, are they? A. Yes, sir.

Mr. RIDER.—In order not to be continually referring to that item of stocks, will you concede that that continued on down until the time the First Na-



(Testimony of Sidney Stewart.)

tional Bank stock is sold?

Mr. McGINN.—Yes, sir.

Mr. RIDER.—Q. What amount of past due paper was carried by the bank on that date as an asset, which was never paid?

A. \$124,023.45.

Q. Your next charge to treasury stock?

A. November 23d, \$500. [294]

Q. What is that?

A. McConnell stock, 5 shares charged back, \$500.

Q. Heading from the debit slip?

A. Yes, sir. Initialed by "J."

Q. On that date, what were the total assets of the bank, as shown by its books? A. \$1,302,286.17.

Q. Its total liabilities? A. \$1,272,395.43.

Q. Total outstanding capital stock?

A. \$169,100.

Q. The total amount of past due paper carried by the bank as an asset on that date, and which was never paid? A. \$129,326.23.

Q. What is the date of that next charge?

A. January 18, 1910, \$500.

Q. What is that?

A. Debit treasury stock, Horton & Dunham, 5 shares, \$500. Initialed "J."

Q. On January 18, 1910, what were the total assets of the bank, as shown by its books?

A. \$1,167,092.16.

Q. Its total liabilities? A. \$1,155,107.53.

Q. The amount of outstanding capital stock?

A. \$168,600.

(Testimony of Sidney Stewart.)

Q. The amount of stocks carried as an asset?

A. \$654,449.

Q. What does that consist of?

A. \$341,949 Gold Bar Lumber Company, \$250,000 Washington-Alaska [295] Bank, and the balance First National Bank.

Q. What would be the amount of the First National Bank stock?     A. \$62,500.

Q. On that date what was the total amount of past due paper carried as an asset by the bank, as shown by the books, and which has never been paid?

A. \$108,714.34.

Q. That completes the debit charges to treasury stock as far as you were able to give them when you first read them into the record. Now, have there been any other charges to treasury stock shown on any other book?

A. Under date of October 25, 1910, a charge of \$10,000.

Q. What is that item made up of?

Mr. CLARK.—We object to any testimony of this unless it is shown to have been with the knowledge and consent of the board of directors. It is not connected with the board of directors in any manner, and it is not binding upon them unless it is shown that they had knowledge of it, or that it was done with their knowledge and consent.

The COURT.—I suppose it will be connected with some of them; if not, it will not be considered. Objection overruled, subject to the objection.

A. This is on the regular form of debit ticket,

(Testimony of Sidney Stewart.)

marked: "Copy. Original taken by Proctor 1/17/12, and in his possession."

Mr. CLARK.—We object, unless there is some evidence that that is a correct copy.

Mr. RIDER.—You have not the original debit slip.

Mr. CLARK.—It is not contended that it is an original entry.

The COURT.—Q. Do you know who made the copy?

A. It is in Mr. Proctor's handwriting.

Mr. CLARK.—He is not an officer of the bank, and we are not bound [296] by any copies that Mr. Proctor may have prepared. We don't know that that is a correct copy of the original.

Mr. RIDER.—I will see if I can prove it in some other way.

Q. Have you there the stock-book containing the certificates of capital stock that were issued to stockholders of the Washington-Alaska Bank, formerly the Fairbanks Banking Company?

A. The certificates of the Fairbanks Banking Company, a corporation.

Q. Have you the original certificate of stock issued to John L. McGinn? A. Yes, sir.

Q. What is the number of it? A. Number 67.

Q. Is there any indorsement of it being cancelled?

A. On the face— (Interrupted.)

Mr. CLARK.—We object. It speaks for itself.

Mr. RIDER.—I can't get that whole book in the record. That is pasted in there. If you want to

(Testimony of Sidney Stewart.)

examine it, they can. I will read into the record such part of it as I can.

Mr. CLARK.—It is a conclusion.

Mr. RIDER.—What is indorsed on there is not a conclusion.

The COURT.—Answer the question.

Mr. CLARK.—We object, because they have already testified that it was charged on October 25th, and from the writing on that, it seems to appear that it was cancelled long before that time. It doesn't correspond with the proof.

The COURT.—Objection overruled. (Defendants except.)

Mr. RIDER.—Q. Read what is written across the face of the certificate.

A. Written in red ink across the face: "Cancelled October 13, 1910. F. W. Hawkins, Secretary."  
[297]

Mr. CLARK.—That goes in subject to our objection, that it is not shown that he had any authority to cancel it.

The COURT.—Yes.

Mr. RIDER.—Q. What other original entries or records have you respecting that certificate of stock?

A. Under date of October 13, 1910, in the loans and discounts register is recorded a note number 03647, maker F. W. Hawkins, amount \$6,000, noted as being due November 1, 1910; proceeds \$6,000. And noted as being paid October 25, 1910.

Mr. CLARK.—We move that that last testimony be stricken out. It shows it was surrendered and

(Testimony of Sidney Stewart.)

cancelled and a note given, which note was afterward marked "paid."

The COURT.—Motion denied.

Mr. RIDER.—If you want special proofs in this matter, we will try to make them.

Q. Can you get the slips which relate to that entry which you have just read?

A. I will have to have the deposit slips.

Q. Haven't you got them here? A. No.

Mr. RIDER.—We will have to pass that item now, and we will try to find that note and the records and show that transaction.

The COURT.—Very well.

Mr. RIDER.—Q. Now, Mr. Stewart, will you read the credit entries appearing in the treasury stock account?

A. Under date of March 16, 1908, credit \$3800.

March 17	1000.
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March 18	100.
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March 20	200.
----------	------

March 23	7000.
----------	-------

May 8	100.
-------	------

June 10	200.
---------	------

May 14, 1910	1000.
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Q. What year is that?

A. 1908, except the last entry. [298]

Q. They are all during the year 1908 except the item of May 14, 1910, which you read?

A. Yes, sir.

Q. Those credits to treasury stock, that is, treasury stock being credited with those items means

(Testimony of Sidney Stewart.)

what, as a bookkeeper?

A. It means issue of stock.

Q. Issue of the capital stock?      A. Yes, sir.

Q. Have you read all of the items of credit to the treasury stock account, as shown on the books of the bank?      A. Yes, sir.

Q. Without taking the time to read who those certificates of stock were issued to—

Mr. RIDER.—I will state to the court that the copy which I will prepare of that paper book entry will show that fact, and then Mr. Stewart can verify it, and we can save that much time in the morning, and I will furnish the court with a copy of it also.

Q. Now, Mr. Stewart, going back to the debit charges to treasury stock, can you tell from the books and papers that you have there, what the bank gave in return for these certificates of stock which are charged to the treasury stock account?

A. Well, in some cases the stock note was cancelled, and in some cases there was cash paid for the stock.

Q. Now, I think I will have to go into the Washington-Alaska Bank of Washington before I can go any further with this transaction. You say you haven't it here?      A. I have some portion of it.

Q. Have you have that portion of it that shows its financial condition as shown by its books on September 13, 1909?      A. Yes, sir.

Q. Then turn to the books of the Washington-Alaska Bank of Washington on September 13, 1909. What was the total amount of its assets, as shown



(Testimony of Sidney Stewart.)

by its books, on that date?

A. \$2,087,866.43. [299]

Q. What was the amount of its liabilities, as shown by its books, on that date? A. \$2,026,616.88.

Q. How much capital stock was outstanding?

A. \$150,000.

Q. What amount of loans did it have on that date, as an asset— (Interrupted.)

Mr. McGINN.—Was that at the close or opening of September 13th?

A. At the close. \$258,546.35.

Q. On that day, what was the total amount of past due paper held by the Washington-Alaska Bank, as an asset?

A. I don't believe I have that figure.

Q. Have you computed, then, the total amount of past due paper held by the Washington-Alaska Bank of Washington as an asset, and which was never paid, on September 13, 1909? A. Yes, sir.

Q. What does that amount to? A. \$88,462.53̄.

Q. Have you gone through the records of the Washington-Alaska Bank of Washington for the purpose of investigating its interest account, so as to determine whether or not it took *took* credit to its interest account for interest and carried it as an asset, amounts which had not been paid?

A. Yes, sir.

Q. In taking a note from a borrower, was it the custom of the Washington-Alaska Bank of Washington to take that note for the principal and the note to draw interest from that date, or to take it for the

(Testimony of Sidney Stewart.)

principal amount, plus interest computed to a day in the future? [300]

A. It was. On most of their notes they took the note and computed the interest to maturity, which was added to the principal.

Q. On the note, then, the face amount of the note would be for the principal, plus interest to maturity.

A. Yes, sir.

Q. That item of interest to maturity was how carried on the books of the bank; how would they carry that note after they would take it that way, including interest and principal?

A. It would be carried in their loans for the face of the note.

Q. For the full face of the note? A. Yes, sir.

Q. The loan account would be then charged with the face of the note, which would be principal and interest? A. Yes, sir.

Q. Have you gone through their loans for the purpose of computing the amount, if any, of the interest on these notes which is included in the face of the notes, and which has never been paid?

A. Yes, sir.

Q. On the 13th of September, 1909, was the Washington-Alaska Bank of Washington carrying in its loan account any item of interest on notes given in the manner you have described, which has never been paid?

A. Yes, sir. You mean, the interest has never been paid?

Q. Yes, sir. A. Yes, sir.

(Testimony of Sidney Stewart.)

Q. In what amount? A. \$16,911.73. [301]

Mr. RIDER.—Q. Is that amount of uncollected interest, \$16,911.73, included in the item of Loans \$258,546.35 that you read us, being one of their assets?

A. It is included in the principal amount of those loans. There is one matter in connection with the Wood stock, in addition to what was shown yesterday, that I wish to return to. I wish to read from the minutes of the meeting of the executive committee held on June 29, 1908, that portion shown, as follows (Reads):

**[Plaintiff's Exhibit "EE"—Part of Minutes of Meeting of Executive Committee, June 29, 1908.]**

“A communication from Mr. R. C. Wood was read. It requested that his resignation, which had been handed in at the previous meeting, be taken up and passed on. After full discussion by the committee, it was moved by Claypool, seconded by Stark, that Mr. Wood's resignation be accepted to be effective on the close of business on June 30, 1908.”

(Marked Plaintiff's Exhibit “EE.”)

Q. Have you with you the certificate of deposit in the sum of \$13,000.00 issued to Mr. Wood, referred to on yesterday?

Mr. McGINN.—We object to all of that question, as calling for a conclusion of the witness as to whether or not this stock was issued.

Mr. RIDER.—I said “Certificate of deposit.”)

(Testimony of Sidney Stewart.)

(Witness hands same to Mr. Rider.)

I wish to offer in evidence this certificate of deposit to show that it was issued by Mr. B. R. Dusenbury, as assistant cashier, on June 30, 1908.

Mr. McGINN.—We object as immaterial. [302]

Mr. RIDER.—I will read further from the minutes of the executive committee of June 29, 1908, which has been offered in evidence as exhibit “EE,” following the acceptance of the resignation of Wood to be effective at the close of business on June 30, 1908 (Reads):

“It is moved by Mr. Hill, seconded by Mr. Stark, that Mr. B. R. Dusenbury be elected cashier to succeed Mr. R. C. Wood, who resigned. (Carried).”

Q. Mr. Stewart, have you with you the books of the partnership of the Fairbanks Banking Company, showing the entries in March, 1908?

A. Some of them.

Q. Will you turn to those books and show the entries that were made respecting the winding up of the business of that partnership, and showing the distribution of the profits to the partners?

Mr. McGINN.—To which we object as irrelevant, incompetent and immaterial, and not binding on any of the defendants in this case.

Mr. RIDER.—I propose to show by those book entries there that there is a notation there of \$52,000 that was divided between Barnette, Hill and Wood, being the excess coming to them referred to in the contract, and a corresponding notation showing that that was paid by capital stock of the Fairbanks

(Testimony of Sidney Stewart.)

Banking Company, and showing that the amount distributed to Mr. Wood was \$13,000.

The COURT.—You can follow that up with other testimony.

Mr. McGINN.—We object to that as not binding on Wood; Wood not being here at that time.

The COURT.—It depends on who had knowledge of the entry, and how it was made.

Mr. RIDER.—Wood was a member of that partnership at that time.

(Objection overruled. Defendants excepted.)

[303]

A. The general ledger of the Fairbanks Banking Company, a partnership, page 284, in stocks account—I will charge that and take the partnership Fairbanks Banking Company's cash-book, on page 264, under date of March 16, 1908, there is a general entry charging stocks account \$52,000; to credit surplus account \$52,000. Memorandum: "E. T. Barnette \$26,000.; James W. Hill, \$13,000; R. C. Wood, \$13,000; 520 shares of F. B. Co. Inc."

Q. Going now to the affairs of the Washington-Alaska Bank of Washington, on September 13, 1909, Mr. Stewart, have you examined the profit and loss account of the Washington-Alaska Bank of Nevada showing the notes charged off by it to profit and loss on December 31, 1909?

A. There was no Washington-Alaska Bank of Nevada then.

Q. I mean the Washington-Alaska Bank of Washington. A. Yes, sir.

(Testimony of Sidney Stewart.)

Q. Have you examined it and determined whether or not any notes were charged to profit and loss on December 31, 1909, which were in the bank, carried by it as an asset on September 13, 1909?

A. Yes, sir. [304]

Q. What did you find in that respect?

A. In their loan tickler, Washington-Alaska Bank of Washington, under date of December 31, 1909, there is a list of loans, the total of which is \$8,408.61, the amount of which is charged to profit and loss. All of these were held, with the exception of one note, I believe—\$8,178.75 of which was held September 13, 1909.

Coming now to the affairs of the Fairbanks Banking Company, on April 12, 1910, and also of the Washington-Alaska Bank on that day, I wish to read from the minutes of the meeting of the board of directors of the Fairbanks Banking Company held on April 12, 1910. (Reads):

**[Plaintiff's Exhibit "GG"—Minutes of Meeting of Board of Directors of Fairbanks Banking Co., April 12, 1910.]**

"Minutes of the meeting of the board of directors of the Fairbanks Banking Company.

Fairbanks, Alaska, April 12, 1910.

The regular meeting of the board of directors of the Fairbanks Banking Company was held at the office of the corporation at Fairbanks, Alaska, at 8-30 P. M. E. T. Barnette, President, presiding. Members present; E. T. Barnette, R. H. Wood, J. L.



(Testimony of Sidney Stewart.)

McGinn, R. Brumbaugh, J. A. Jesson, J. A. Jackson, Dave Yarnell."

I will mark the parts I read as I read them.

"Upon motion of Brumbaugh, seconded by Jesson, the present officers were re-elected for the ensuing six months, viz., President, E. T. Barnette; Vice-president, J. L. McGinn; Second vice-president, L. N. Jesson; Cashier, secretary and treasurer, J. A. Jackson; Assistant cashier, L. E. Wing. The following-named persons were then named as the executive committee for the ensuing term, in conjunction with the president and vice-president; J. A. Jesson, R. C. Wood and J. A. Jackson.

Mr. Wood informed the board that the Washington-Alaska [305] Bank had declared a dividend of 33-1/3 per cent on its capital stock, amounting to \$50,000, which would be paid to the Fairbanks Banking Company, owners of the stock.

It was then moved by Wood, seconded by Jesson, that \$25,000 of this amount be credited to stock account, thus reducing the value at which this stock is held, and the other \$25,000 be credited to the undivided profits. Motion carried." "Moved by Jesson, seconded by McGinn, that the Fairbanks Banking Company declare a dividend of 20 per cent on its paid-up capital stock, namely \$168,600. Motion carried." That is offered as an exhibit.

(Marked as Plaintiff's Exhibit "GG.")

Q. Mr. Stewart, will you read into the record the condition of the Fairbanks Banking Company as to

(Testimony of Sidney Stewart.)

its assets and liabilities on April 12, 1910, as shown by their books?

A. Under date April 12, 1910, as shown by the daily statement-book of the Fairbanks Banking Company, a corporation, there was due from Banks of B. N. A. \$2,593.92; Bank of California, \$2,898.33; due to Dome City Bank \$116.30; due from Dexter Horton & Company \$199.83; due from First National Bank \$6.15; due to National Park Bank \$5,750.87; due to National Bank of Commerce \$65,737.96; due to Scandinavian-American Bank \$9,663.88; due from Seattle National Bank \$5.54; due from Vallez Bank & Mercantile Company \$577.39; due to sundried old bank \$2,448.52; due from Canadian Bank of Commerce, \$50; Coin on hand \$92,985.90; dust on hand [306] \$1,908.13; Treasury stock \$131,400; sundry stocks \$654,449; real estate \$26,834.63; real estate No. 2 \$3,968.28; bad debts \$43.62; loans and discounts \$338,410.94; expenses \$13,768.34; interest savings \$16.76; overdrafts \$12,151.52. Footing \$1,198,550.80.

Those items I have read under the side marked "resources," the "due to banks" are stated in red ink; and "due from banks" are stated in black ink.

Under the liability side:

Capital stock \$300,000; deposits \$372,420.55; savings deposits \$504,551.71; interest \$7,903.94; interest account banks \$265.50; exchange \$974.04; save deposit vaults \$555; rents \$1165.00; dust exchange \$476.98; profit and loss \$9,974.78; warehouse \$290.50. Footing, \$1,198,550.80.

(Testimony of Sidney Stewart.)

Q. Is that a statement showing the condition at the opening or the close of business of April 12, 1910? A. That is the close of business.

Q. From that statement have you, or can you make a computation as to the amount of profit, of any, the Fairbanks Banking Company had on that day—undivided profit, I mean?

A. As shown, it would leave a credit to profit of \$7,749.82.

Q. Now, add to that the \$25,000 placed to the credit of undivided profits by the resolution of the board of directors passed on the evening of April 12, 1910, which has been read in evidence.

A. Yes, sir.

Q. What does that make? A. \$32,749.82.

Q. What was the amount of the dividend of 20 per cent declared by the board of directors on their stock outstanding on that [307] day, as stated by their resolution; 20 per cent dividend on \$168,600 worth of stock? A. \$33,720.

Q. What is the difference between that and the amount of their undivided profits? A. \$970.18.

Q. On April 12, 1910, what stocks were carried as an asset by the Fairbanks Banking Company?

A. \$341,949 Gold Bar Lumber Company; \$62,500 First National Bank; \$250,000, Washington-Alaska Bank of Washington.

Q. Making the total of stock that you read from the daily statement? A. Yes, sir.

Q. On April 12, 1910, have you computed the amount if past due paper carried by the Fairbanks

(Testimony of Sidney Stewart.)

Banking Company as an asset and which has never been paid?     A. Yes, sir.

Q. What is it?     A. \$111,243.51.

Mr. RIDER.—Will you gentlemen require me to trace through these books each of the dividends belonging to those stockholders paid to the stockholders? It will take considerable time to do it.

Mr. McGINN.—We are willing to admit that upon the 12th day of April, 1910, a dividend was declared by the Fairbanks Banking Company in the amount of \$33,720, which amount was distributed among the then stockholders of the Fairbanks Banking Company according to the respective amounts of stock held by them individually; that in some instances the money was placed to the account or deposited to the credit of some of the stockholders of the bank in the bank; in other instances [308] the dividend was applied upon the notes or debts that some of the stockholders owed the Fairbanks Banking Company; that in some instances the dividend was applied upon the stock notes of some of the stockholders.

Mr. RIDER.—And that that which was placed to their credit in their accounts was drawn out by them?

Mr. McGINN.—It was subject to be drawn out. In other words, that all that was not applied upon the indebtedness of the stockholders was placed in their open accounts, subject to their check. You want the further admission; and that part was paid in cash, over the counter of the bank, and part remitted to stockholders on the outside. That covers

(Testimony of Sidney Stewart.)

everything, I think.

Mr. RIDER.—Yes, sir.

Q. Mr. Stewart, have you the books of the Washington-Alaska Bank of Washington of April 12, 1910? A. Some of them. Yes, sir.

Q. Have you the daily statement-book?

A. Yes, sir.

Q. As shown by that daily statement-book, what was the total amount of loans carried by the Washington-Alaska Bank on the 12th day of April, 1910, as an asset? A. \$330,253.31.

Q. Have you made a computation for the purpose of determining what amount of those loans were past due on April 12, 1910, and have never been collected?

A. Yes, sir.

Q. What was the amount? A. \$85,645.61.

Q. Did the Washington-Alaska Bank on that day, April 12, 1910, have in its assets any paper of the Fairbanks Banking Company?

A. Yes, sir. [309]

Q. What?

A. It shows an asset here: "F. B. Co. \$125,000." Their daily statement-book don't state there what it is.

Q. Can you trace it out and tell us what it is?

Mr. McGINN.—We admit they held a certificate of deposit in that amount.

Mr. RIDER.—Q. On that day, did they hold a certificate of deposit of the Fairbanks Banking Company in the sum of \$125,000?

Mr. McGINN.—Secured by stock of the Fairbanks

(Testimony of Sidney Stewart.)

Banking Company.

Mr. RIDER.—There is no admission about any security for it at all. Do you withdraw your admission about the certificate of deposit?

Mr. McGINN.—No.

Mr. RIDER.—Q. On that day, April 12, 1910, as shown by the books of the Washington-Alaska Bank of Washington, what was the amount of its total undivided profits? A. In the net amount?

Q. Yes, as shown by its books. A. \$57,081.76.

Mr. RIDER.—I wish now to read from the minutes of a special meeting of the trustees of the Washington-Alaska Bank, held on Tuesday, April 12, 1910, by the Washington-Alaska Bank of Washington (Reads):

“Minutes of a special meeting of the trustees of the Washington-Alaska Bank, held in the Barnette Block in the town of Fairbanks, Alaska, on Tuesday, April 12, 1910, at 4 o'clock P. M.; notice and call of meeting having been given and made by the president.

Present: E. T. Barnette, George C. Wesch, Richard C. Wood. The meeting was called to order by the president. Mr. A. R. Heilig was thereupon unanimously elected secretary [310] pro tem.

The president announced that the corporation held undivided profits in a sum in excess of \$50,000, over and above the capital stock; and thereupon, on motion duly seconded and carried, it was unanimously voted that a dividend of thirty-three and one-third per cent on the capital stock be declared, and as soon



(Testimony of Sidney Stewart.)

as practicable paid to the stockholders of said company.”

I cannot introduce that in evidence as an exhibit other than by reading, because it is a part of a large book, but I will supply a copy of that for the record, as an exhibit.

The COURT.—It may be admitted.

(Copy thereof to be marked Plaintiff’s Exhibit “HH.”)

Mr. RIDER.—Now, I wish to read from the By-laws of the Fairbanks Banking Company a portion of Section 9 of Article 2, which article is entitled “Directors,” and Section 9 is entitled: “Powers of directors.” The third clause of Section 9, under heading “Powers of directors” (Reads):

**[Plaintiff’s Exhibit “HH”—Portion of By-laws of Fairbanks Banking Co.]**

“To declare dividends semi-annually out of the net profits of the corporation earned up to the 30 day of June of each year, and from the 30 of June to the 31 day of December of each year; said dividends to be declared by the board of directors at the first regular meeting held subsequent to the 30th day of June and the 31st day of December of each year. Provided, however, that no dividend shall be declared or paid that tends to curtail the effective operation of the business of the corporation.” I will supply the record with a copy of that.

The COURT.—It may be admitted. [311]

Q. (Mr. STEWART.) I present you with three

(Testimony of Sidney Stewart.)

notes, executed by the Fairbanks Banking Company and payable to the Washington-Alaska Trust Company, dated April 12, 1910. Can you identify them as notes in the vaults of the receiver pertaining to the affairs of the Fairbanks Banking Company?

A. Yes, sir.

Mr. RIDER.—I offer in evidence these three notes for the purpose of showing that on the day the Fairbanks Banking Company declared a dividend it borrowed \$150,000. The three notes are dated April 12, 1910, each in the sum of \$50,000, and each payable on demand to the Washington-Trust Company of Seattle, and each signed by Fairbanks Banking Company, by E. T. Barnette, President.

Mr. McGINN.—Endorsed by whom?

A. Endorsed by E. T. Barnette, each of them.

(Marked Plaintiff's Exhibits "JJ," "KK" and LL.")

Mr. RIDER.—At this time I would like to offer in evidence the general corporation laws of Nevada under which this corporation the Fairbanks Banking Company, afterwards known as the Washington-Alaska Bank of Nevada, was incorporated, and read certain sections of that incorporation law. [312]

"Capital Stock Not To be Reduced, Etc.—Proviso.—Sec. 68. It shall not be lawful for the trustees or directors to make any dividend except from the net profits arising from the business of the corporation; nor to divide, withdraw, nor in any way pay to the stockholders, or any of them, any part of the capital stock of the company; nor to reduce the

(Testimony of Sidney Stewart.)

capital stock, unless in the manner prescribed in this Act, or in accordance with the provisions of the certificate or articles of incorporation; and in case of any violation of the provisions of this section, the directors or trustees under whose administration the same may have happened, except those who may have caused their dissent thereto to be entered at large on the minutes of the board of directors or trustees at the time, shall in their individual and private capacities, be jointly and severally liable to the corporation, and the creditors thereof, to the full amount so divided, withdrawn or reduced. or paid out; provided, that this section shall not be construed to prevent a division or distribution of the capital stock of the company which shall remain, after the payment of all of its debts, upon the dissolution of the corporation or the expiration of its charter; provided, also, that this section shall not prevent the retirement or conversion of either stock or bonds or the distribution of the earnings or accumulations of the corporation as provided for in the articles of certificate of incorporation.” [313]

Q. I show you this book referred to this morning, and upon which is the number 399 pasted on, and ask you by whom that was done; who pasted that number 399 on the book?

A. To the best of my knowledge and belief John L. Proctor.

Q. Who was John L. Proctor?

A. He came here I believe 2 years ago, wasn't it, and was representing the Department of Justice.

(Testimony of Sidney Stewart.)

Q. Do you know who pasted on this typewritten statement here as to what Hawkins thinks this book is?

A. I believe he tagged and marked these books. I didn't see him do it.

Q. You know he numbered all of those books?

A. Yes, sir.

Q. And made out a list of them, did he not?

A. Yes, sir.

Q. Have you got that list?      A. Yes, sir.

Q. I will ask you whether or not in that list this book which is numbered 399 is referred to.

Mr. RIDER.—I object to that as irrelevant, incompetent and immaterial.

Mr. McGINN.—For the purpose of showing this is one of the books and records of the Washington-Alaska Bank.

The COURT.—I do not think that would show it. Objection sustained.

Mr. McGINN.—Q. That book has been in the custody of the receiver ever since you have been connected with the receivership, has it not? [314]

A. Excepting during the time it was at Valdez.

Q. By whom was it taken to Valdez?

A. Well, it was taken there under subpoena issued to the receiver to come and bring these books.

Q. What books were particularly specified, or were all the records specified?

A. As listed here (exhibiting list).

Q. And he brought that book with him.

A. Yes, sir.

(Testimony of Sidney Stewart.)

Q. That is the list that was made up by proctor.

A. Yes, sir.

Q. Do you know whose handwriting that book is in?

A. I think that is Mr. Dusenbury's handwriting.

Q. And it is initialed "D"?

A. Initialed "D," yes, sir.

Q. And secretary? A. Yes, sir.

Q. Assistant cashier? A. Yes, sir.

Q. And he always signed "D"?

A. Initialed his entries.

Q. This book, all the way through, or a part of it, shows those entries, or some of them? A. Yes.

Q. I will ask you to refer to this book I have been speaking of, and which is marked No. 399, and see whether you can determine from that book whether there was any security for this note.

Mr. RIDER.—The plaintiff objects to the introduction of testimony from that book until it is shown that it was a book of entry of the bank, and part of the records of the bank.

The COURT.—Is it your contention that that is not one of the books of the bank? [315]

Mr. RIDER.—I don't know a thing about it. Mr. Stewart testified it was a book he saw in the bank, but it doesn't seem to have entered into his calculations. It has not been identified as a book of the bank.

The COURT.—It seems to me it should be identified in some way.

Q. The next we have here is Tanana Electric Com-

(Testimony of Sidney Stewart.)

pany. December 16, 1907, two notes.

A. Yes, sir. (Hands same to Mr. McGinn.)

Q. I wish you would refer to the ledger account of the Tanana Electric Company. Have you got the books of the bank at Cleary of November, 1907? First of all, have you got them [316] of April, 1907, September, 1907, October and November, 1907? First of all, I will ask you what the bank of Cleary was, if you know. A. No, sir.

Q. The Fairbanks Banking Company, during the year 1907, had a branch bank on Cleary Creek, did they not? A. I have heard so.

Q. Have you any of the records of that bank in your possession?

A. There are some, I believe, but I haven't any of them here.

Q. Have you any in your possession showing the account of the Tanana Electric Company with the bank at Cleary—the branch of the Fairbanks Banking Company, during the year 1907?

A. No, sir, not here.

Q. You have them in your possession, or in the possession of the receiver? A. For 1907.

Q. Yes. A. I wouldn't be sure about that.

Q. Will you look them up and find out?

A. Yes, sir.

Q. Will you refer there to the account of the Tanana Electric Company for the month of April, 1907? A. (Opens a book.)

Q. Does that show what advancements, if any, of money were made by the Fairbanks Banking Com-



(Testimony of Sidney Stewart.)

pany to the Tanana Electric Company?

Mr. HEILIG.—What book is that?

A. The deposit ledger.

Mr. McGINN.—Q. Does it show any credit?

A. In April?

Q. Yes. April, 1907. [317]

A. A few small credits during the month of April.

Q. Are there any in any large sum?

A. Not during April. On May 1st there was a credit of \$18,500.

Q. That left them how much on hand at the close of the day of May 1st? A. \$3,135.82.

Q. What amount of checks were drawn out that day?

A. There is one charge of \$6,288.26, and another of \$9,213.38.

Q. Do you know where that went to?

A. No, sir.

Q. Have you any means of tracing it?

A. I believe so.

Q I wish you would.

Mr. RIDER.—I don't see the purpose of that.

Mr. McGINN.—Mr. Rider introduced a telegram, dated November 11, 1907, which was received by the Fairbanks Banking Company on November 11, 1907, in which Mr. Chilberg of the Scandinavian-American Bank advised the Fairbanks Banking Company not to advance any more money to the Tanana Electric Company; and he has introduced telegrams and letters here, seeking to show that it was only by either telegraphic or written communications from

the Scandinavian-American Bank to the Fairbanks Banking Company that the Fairbanks Banking Company advanced to the Tanana Electric Company sums of money. I want to show by the records here that prior to April 30, 1907, when a note for \$18,500 was given by the Tanana Electric Company to the Scandinavian-American Bank, that this money had, prior to that time, been advanced by the bank; and that the same thing occurred prior to September 7, 1907, when there was a note given for \$25,000 to the Fairbanks Banking Company. In other words, I want to show [318] that the Fairbanks Banking Company were making advancements right along to the Tanana Electric Company, and that then the Fairbanks Banking Company would telegraph to the Scandinavian-American Bank; Tanana Electric Company owes us so much money. And then they would wire in to take the note for it; showing that these advances were not made at one time, but over a gradual period of time.

Mr. RIDER.—No dispute that they were made over a gradual period of time. The point of the testimony was that there was no credit given to the Tanana Electric Company on the strength of any guaranty or any expectation to pay from the Scandinavian-American Bank until after the advancements had been made and until they received instructions from the Scandinavian-American Bank to make them. Then, when they received that instruction, they would then enter the credit upon the books of the Fairbanks Banking Company, giving the Tanana

Electric Company credit in those sums, as they did on May 1st for \$18,000, after they had been instructed by the Scandinavian-American Bank to do that. \* \* \*

Mr. McGINN.—If you will admit that these advancements were made from time to time and before these notes were given to the Scandinavian-American Bank; that is, that this \$18,500 was advanced to the Tanana Electric Company from time to time prior to the 1st of May, 1907, and that upon that date or April 30th, a note was obtained for that amount and sent to the Scandinavian-American Bank or held here for the benefit of the Scandinavian-American Bank—

Mr. RIDER.—Upon their direction to take it.

Mr. McGINN.—Owing to the telegram that was introduced in evidence.

Mr. RIDER.—I do not think that telegram was introduced, the one [319] in May directing them to take a note from the Tanana Electric Company. You and I can agree upon what these book entries show, if it will save time. \* \* \* I have identified the date when those advancements were made, but it is my understanding that they were made prior to the time the Scandinavian-American Bank authorized it, and the credit was not given to the Tanana Electric Company until the Scandinavian-American Bank directed this bank to do so.

Mr. McGINN.—With that understanding, I will not go into these matters. The credit was given before to the Tanana Electric Company.

Mr. RIDER.—Given before what?

Mr. McGINN.—Was given before they received any of these.

Mr. RIDER.—The advancements were made to them, but they would be charges. But the credit to the Tanana Electric Company wasn't given.

Mr. McGINN.—You mean; charges to the Scandinavian-American Bank?

Mr. RIDER.—Yes, and the credit to the Tanana Electric Company.

Mr. McGINN.—That is right.

We would like to ask Mr. Rider whether he has in his possession the telegram which called for the telegram of April 30, 1907. It is a telegram from the Fairbanks Banking Company to the Scandinavian-American Bank.

Mr. RIDER.—I presume it will be found in one of the letter-books. I will look it up for you. (Produces letter-book.)

Mr. McGINN.—I desire to read from Book 4, copies of telegrams. (Reads.) On page 339.

“Fairbanks Banking Company. April 24, 1907. Fairbanks, Alaska, April 24, 1907. Scandinavian-American Bank. Tanana Electric Company have deposited with us mortgage for \$100,000, note \$18,500 payable on demand with interest [320] at 6 per cent per annum. Place to our credit when accomplished pay Halliday Machine Company \$6400 on account of your collections 54061, 54167 and 54438. Fairbanks Banking Company.”

Telegram found on page 346:—

Mr. RIDER.—No objection to their being supplied by copies, and marked as their exhibits.

Mr. McGINN.—Same book, page 346 (Reads):

“Fairbanks, Alaska, April 29, 1907.” A telegram. “Scandinavian-American Bank, Seattle, Washington. Refer to our telegram of 24 April, Tanana Electric. What has been done in the matter?”

FAIRBANKS BANKING COMPANY.”

Book 4, page 41 (Reads):

“Fairbanks, Alaska, September 2, 1907. J. E. Chilberg. Tanana Electric have deposited note for \$25,000 payable on demand, in favor of Scandinavian-American Bank. Wire funds to bank.”

FAIRBANKS BANKING COMPANY.”

Same book, page 119 (Reads): Telegram.

“November 7, 1907. J. E. Chilberg, Vice-president Scandinavian-American Bank, Seattle, Washington. In reply to your telegram of 6th did not know was overdrawn. Presume that Richmond required deposit for account. Tanana Electric \$69,000. We have advanced \$30,000 against this transfer. Owing to bad condition of the road, have been unable to ship. Will ship \$100,000 Monday.”

Give me Plaintiff's Exhibit “I.” (Same handed to Mr. McGinn by the clerk). We desire to read the whole of the letter of J. E. Chilberg to the Fairbanks Banking Company. Counsel for plaintiff read part of it. [321]

Mr. RIDER.—It is understood, I presume, that the right of counsel to introduce any portion of their case as a part of the plaintiff's case is objected to,

(Testimony of Sidney Stewart.)

and that this is received with that understanding, and with that objection to all of these exhibits that he is offering.

Mr. McGINN.—(Reads Plaintiff's Exhibit "I.")

Now, give me Plaintiff's Exhibit "E." I desire to read from paragraph 23 of the minutes of the meeting of the board of directors. (Objected to as not cross-examination.) Counsel read from section 24, and section 23 is so connected with it that it should be read. It is as follows: (Reads.)

"23. It was moved by Mr. Claypool and seconded by Mr. Robinson that the date heretofore agreed upon by the stockholders prior to incorporation, namely: February 15th, 1908, for the opening of the Fairbanks Banking Company, a corporation, be changed to March 16th, 1908. Carried."

The COURT.—Very well, in regard to that part of it.

Mr. McGINN.—I will proceed to something else now.

Q. Mr. Stewart, the other day when you were upon the witness-stand you were asked concerning the assets and liabilities of the Fairbanks Banking Company upon certain dates. You remember that?

A. Yes, sir.

Q. The accrued interest that was credited to the Fairbanks Banking Company and which amounted to the sum of \$39,642.81 was placed to their credit on March 23, 1908, I believe you stated.

A. It was about that date.

Q. And that was carried as a liability, was it not?



(Testimony of Sidney Stewart.)

A. Yes, sir. [322]

Q. Was any of the interest that accrued then counted as a resource?

A. No, sir, not in the figures that I gave.

Q. I believe you testified that upon the 30th day of June, 1908, the total assets of the Fairbanks Banking Company were \$1,251,924. Is that correct?

A. Yes, sir.

Q. And that the total liabilities of the Fairbanks Banking Company was \$1,290,843.40?

A. Yes, sir.

Q. The difference between the amount of the assets and liabilities was the sum of \$38,918.40?

A. Approximately, without figuring it.

Q. If this accrued interest which was due the partnership, or owing to the partnership, and which was not due until the 31st day of December, 1908, had not been carried as a liability at that time, it would have showed that the assets exceeded the liabilities in about the sum of \$741.44?

A. Without figuring it, approximately. That is, the liabilities would have been reduced the sum of \$39,000.

Q. As a matter of bookkeeping, when this interest which was due upon these notes up to the 16th day of March was charged as a liability against the corporation, should not the interest that had been earned up to that time and which was due to the corporation have been included in the assets?

A. Well, of course, that would be figuring the accrued interest.

(Testimony of Sidney Stewart.)

Q. But you are charging this interest up to the 16th day of March against the corporation, are you not, and in favor of the partnership?

A. I don't quite catch that. [323]

Q. You charge this \$39,642.81 interest as a liability against the corporation? A. Yes, sir.

Q. Well, then, in that case should not the interest that was earned up to that time have been computed and included in the assets?

A. You could consider that as an asset. But the figures I took were just the figures as shown by their daily statement, you understand.

Q. I am taking it as a matter of bookkeeping, in order to show the true condition of the bank at that time. Shouldn't that have been done?

A. It could have been considered as an asset.

Q. The interest that was earned and not collected should have been considered as an asset?

A. Accrued interest on loans is an asset.

Q. But it is not included.

A. It is not included.

Q. It is not included in that statement?

A. No, sir.

Q. You also gave figures as to July 20, 1908, in which you say that the total assets of the Fairbanks Banking Company were the sum of \$1,208,796.76, and that the liabilities were \$1,229,489.68; showing that the liabilities on that date exceeded the assets in the sum of \$20,000. That is correct?

A. Approximately that amount. It would be whatever the difference is.

(Testimony of Sidney Stewart.)

Q. What I have asked you concerning this interest account which had been placed to the credit of the partnership, also will apply to this as well, will it not? A. Yes, sir. [324]

Q. And the same is true as to the assets and liabilities mentioned by you as of date 29th day of July, 1908? A. Yes, sir, the accrued interest.

Q. And as of August 5, 1908. A. Yes, sir.

Q. And of September 18, 1908, and long after, and up to the 31st day of that year?

A. Up to the 31st day of December.

Q. I would like to ask you to refer to the book called the Daily Statement of the 29th day of August, 1908. A. Yes, sir. (Opens book.)

Q. I wish you would take a paper and a pencil, and I will ask you to write down the amount that was due the Fairbanks Banking Company from the Bank of British North America on that date.

A. \$3,132.27.

Q. How much was due this bank from the First National Bank of San Francisco? A. \$2,052.40.

Q. And the National Park Bank of New York?

A. \$17.66.

Q. And the Seattle National Bank?

A. \$714.86.

Q. Valdez Bank and Mercantile Company?

A. \$791.78.

Q. Dexter-Horton? A. \$400,107.39.

Q. Sundry Banks? A. \$100.

Q. Bank of California, San Francisco?

A. \$985.21. [325]

(Testimony of Sidney Stewart.)

Q. J. W. McCormick.      A. \$381.92.

Q. Shepard Brothers and McBride?      A. \$45.94.

Q. Cash on hand?      A. \$193,007.54.

Q. Gold-dust on hand?      A. \$125,891.94.

Q. Can you figure that up and give me the total?

A. \$727,228.91.

Q. Now, I would ask you to refer to the amount due depositors. They kept two accounts there, didn't they? ordinary and savings accounts?

A. Yes, sir.

Q. How much was due to ordinary depositors?

A. \$660,519.41.

Q. How much was due the savings account?

A. \$37,305.03.

Q. How much was due the depositors of the Cleary Branch?      A. Due to Cleary Branch \$59,186.41.

Q. And the Dome City Bank, being a branch bank?

A. \$425.37.

Q. J. P. McCrosky, agent?      A. \$1523.92.

Q. Alaska Bank, Nome?      A. \$1095.74.

Q. Outstanding scrip?      A. \$390.00.

Q. Old Bank collections; not the interest, just the collections?      A. \$2,378.54.

Q. I will ask you to state whether or not those were all the demand liabilities that existed on that date, except the Dexter-Horton matter.

A. Except the Dexter-Horton \$200,000?

Q. Yes, sir. [326]

A. And the Barnette special deposit.

Q. That was not due at that time, I mean, on de-

(Testimony of Sidney Stewart.)

mand; and excepting the savings, which was not a demand either.

A. The Scandinavian-American Bank.

Q. That is a disputed account, is it not?

A. I don't know what the dispute was at that time.

Q. What is the amount of it?      A. \$9,746.19.

Q. Leaving that out, is there anything else there?

A. The capital stock liability.

Q. Just figure up what you have there.

A. \$762,824.42, I make it.

Q. Did you know who J. W. McCormick was?

A. Yes, sir.

Q. He was the agent of the bank, buying gold-dust?

A. I presume that is what this is intended for.

Q. Shepard Brothers & McBride acted as agents for the bank out on Fairbanks Creek.

A. I don't know them.

Q. Those items such as, due from Bank of British North America, First National Bank, etc., are all available cash. You know that.      A. What?

Q. That is available cash, money on deposit in other banks; that is considered available cash?

A. That is considered available, yes, sir.

Q. Ready for instant use.      A. Yes, sir.

Q. I will ask you to state what the difference is between the amount of cash and gold-dust that was available to the bank upon that day, and the amount of its then demand obligations, as you have read them out here. [327]

A. The liabilities exceed these assets in these figures to the extent of \$35,595.51.

(Testimony of Sidney Stewart.)

Q. In other words, the Fairbanks Banking Company, upon the 29th day of August, 1908, had sufficient money to pay all of their depositors—sufficient money on hand to pay all of their depositors, with the exception of about \$35,595.51. Isn't that true?

A. That is what this figures out, from these figures.

Q. There can't be any mistake about those figures?

A. No, sir, that is what the book shows.

Mr. RIDER.—You mean the depositors you have listed.

Mr. McGINN.—All the depositors here; also due depositors at the Bank of Cleary, depositors of the Dome City Bank, J. J. McCormick, the agent of the bank, Alaska Bank at Nome; what was due them; also outstanding scrip \$390; old bank collections amounting to \$2,378. What other liabilities did the bank have on that date, not including the capital stock and not including the Scandinavian-American Bank?

A. E. T. Barnette special, deposit \$200,000, and the bills payable \$200,000.

Q. What do you mean by "bills payable?"

A. That I believe was the Dexter-Horton.

Q. What else?

A. The old bank interest \$39,000.

Q. That was not due at that time, was it? Well, put it down. Anything else? A. \$483.59.

Q. That covers all the liabilities except the capital stock. A. Yes, sir.

Q. What does that amount to?

A. The outstanding capital stock? [328]



(Testimony of Sidney Stewart.)

Q. No. What is the total of those items that you have there?

A. The total of these items is \$439,483.59.

Q. What were your loans and discounts upon that date? A. \$282,836.81.

Q. What was your real estate? A. \$26,817.63.

Q. Gold Bar stock? A. \$341,949.

Q. Can you tell approximately what amount of interest was then due to the bank which had not yet been collected? A. No, I cannot.

Q. Can you tell whether or not that would about off-set that item of \$39,000?

A. That is a pretty hard matter to give, for me.

Q. Could you tell whether it would be ten, twenty or thirty thousand dollars?

A. It would be a mere guess.

Q. You have no means of telling? A. No, sir.

Q. What does that figure up? That is everything there is, is it? A. \$651,603.44.

Q. The total liabilities were \$439,483.59, were they not. A. Those were those four items.

Q. What is the difference between those items?

A. \$212,119.85.

Q. How much was the capital stock upon that date? A. \$300,000.

Q. How much paid up; I mean, subscribed stock, outstanding stock? A. \$188,200.

Q. What is the difference between the surplus and the outstanding stock? [329]

A. The difference between the \$188,000 and the \$212,000?

(Testimony of Sidney Stewart.)

Q. Yes. A. \$23,919.85.

Q. That does not include any interest that was then due? A. No, sir.

Q. So, then, you say that the Fairbanks Banking Company upon the 29th day of August, according to their books, had sufficient money to pay all of their depositors and what was due to banks, with the exception of about \$35,000; that is, they had cash in hand practically.

A. Well, it had that cash in hand sufficient to pay, excepting \$35,000, those items I read there.

Q. All their depositors, and what was due banks.

A. Yes, sir, those items.

Q. They had sufficient to pay, with the exception of \$35,000. A. Yes, sir.

Q. They owed Dexter-Horton at that time \$200,000.

A. Yes, sir.

Q. But they had loans and discounts amounting to the sum of \$282,000. A. Yes, sir.

Q. So that their loans and discounts, if all but \$82,000 of them were paid, would be sufficient to pay Dexter-Horton. A. Figuring that way, yes, sir.

Q. They owed Barnette on a special account \$200,000. A. That is correct.

Q. They were carrying Gold Bar at \$341,000.

A. Yes, sir.

Q. So, Gold Bar, ought to have been sufficient to pay Barnette. A. Yes.

Q. Then they had the real estate here, and the interest that was [330] still due, to pay the balance of the \$35,000 that was due depositors that they

(Testimony of Sidney Stewart.)

didn't have sufficient money on hand to pay, isn't that true, on the surplus and the loans and discounts?

A. And that interest that belonged to the old bank should be considered here, too.

Q. You have got that included there.

A. It is included in that \$439,000 part of the liabilities there.

Q. But I am asking you about the \$35,000 that they lacked in cash to pay all of their depositors on that date and what was due to banks.

A. Yes, sir.

Q. They had their real estate here and interest on existing loans to pay that, didn't they, and the surplus in the profit and loss account?

A. You figure that the loans would take care of the Dexter-Horton, and Gold Bar take care of Barnette.

Q. Gold Bar would certainly take care of Barnette? A. Yes.

Q. And there was real estate and surplus enough to take care of the \$35,000? A. Yes.

Q. It would do that? A. Yes.

Q. So that they had \$82,000 loans and discounts that exceeded the claim of Dexter-Horton; they had the difference between the \$341,000 which they were carrying Gold Bar for and the \$200,000, to pay this \$39,000 that was due the old institution and to pay the subscribers or stockholders for their stock?

A. I think that would figure out about that way, on those figures. [331]

Q. As a matter of fact, it practically shows that they could pay every depositor on that day in full.

(Testimony of Sidney Stewart.)

Wasn't that the condition of the bank on the 29th day of August?

A. Well, in my statement I have taken the statement just as they show it on this daily statement book.

Q. According to the books. That is where you got all of your statements?

A. Of course. I have not figured it the way you have figured it.

Q. But you can't get away from those figures.

A. I admit, if you were to figure that way, that—  
(Interrupted).

Q. Figure it any way?

A. I say; when I figured the other, these figures from these books was what was called for.

Q. You didn't testify to this date, the 29th?

A. I don't remember.

Q. Do you know whether or not upon that date the depositors of the bank—or that there were depositors of the bank that owed the bank in the aggregate the sum of \$35,000?

A. That there were depositors that owed the bank?

Q. Yes. Notes not due that they owed the bank at that particular time.

A. I have never gone into that.

Q. I want to call attention to the stock that is claimed to have been surrendered, and purchased by the corporation. First— [332]

Q. I want to call your attention to the stock that is claimed to have been surrendered, and purchased by the corporation. First of all, is the stock of B. P.

(Testimony of Sidney Stewart.)

Walsh. Can you tell me whether Walsh had ever paid for his stock or not?

A. He paid \$25.00 on June 3rd.

Q. Did he ever pay any more?

A. No, sir; I believe that is all.

Q. Did the bank ever refund any money to him for his stock? A. Ever refund any money to him?

Q. Yes. Or pay him any money for his stock?

A. They returned to him his \$25.

Q. Where does that appear?

A. On the debit ticket, July 15th.

Q. July 15, 1908. The next is Ed Thomas, July 20th. Do you know whether Ed Thomas ever paid for his stock?

A. Thomas according to a memorandum here—I am not taking this from the books—Thomas paid \$250, and on July 20th—(Intrpd.).

Q. Was there ever any stock issued to Thomas?

A. I don't find his name in the stock-book here.

Q. You don't find where there was any stock ever issued to him? A. No, sir.

Q. I will ask you next as to A. McBride—(Interrupted).

A. Thomas gave his note on March 16th for \$250 and \$750, and he paid \$250, and that was afterwards refunded.

Q. You don't find his name in the stock-book?

A. No, sir.

Q. You don't find where any stock was ever issued to him? [333]

A. No. These notes were given, I believe, and the

(Testimony of Sidney Stewart.)

stock was to be issued when the notes were paid.

Q. His name was never put in the stock-book at all?     A. No, sir.

Mr. RIDER.—Is that Thomas or McBride?

A. Thomas.

Mr. McGINN.—Q. The stock-book should show all of the stockholders.

A. It should. Maybe it is not possibly indexed here. I don't seem to run across it here as being indexed.

Q. We will pass to A. McBride, \$2,000. Was there any stock ever issued to him?

A. McBride gave two notes for stock.

Q. I asked you if there was ever any stock issued to him.

A. He is not shown on the stock ledger, no.

Q. His name doesn't appear as a stockholder in the concern in any way on the books of the company?

A. I don't think there was any stock ever issued to him.

Q. No stock issued, and his name does not appear in the stock-book?     A. No, sir.

Q. We will take up the next one; Antone Letnis, 2 shares.     A. I don't find him on the stock ledger.

Q. His name don't appear as a stockholder of the Fairbanks Banking Company, does it?

A. No, sir.

Q. And there was never any stock issued to him by the Fairbanks Banking Company?     A. No, sir.

Q. A. N. Larsen, 10 shares, it says here in the complaint.     A. The same way with Larsen.



(Testimony of Sidney Stewart.)

Q. Never a stockholder and never any stock issued to him. [334] A. No, sir.

Q. F. E. Johnson.

A. F. E. Johnson appears on the stock ledger.

Q. How many shares? A. Two shares.

Q. Was his stock afterwards returned into the treasury of the corporation?

A. On July 20th, F. E. Johnson, 2 shares. He gave his notes on March 16th. That is George Johnson you are speaking of, I think.

Mr. CLARK.—It says “F. E.”

A. It should be “George Johnson, July 20th.” The stock was not issued to F. E. Johnson until July 20, 1908, 200 shares.

Mr. McGINN.—Q. You say it was issued to him upon that date?

Mr. CLARK.—That is another Johnson. It was F. E. Johnson whose stock was issued July 20th.

Mr. McGINN.—No, that is the day it was supposed to be surrendered. It is F. E. Johnson here.

Q. Was that stock ever surrendered back to the corporation? A. George Johnson, 200 shares.

Q. No. We want F. E. Johnson.

A. F. E. Johnson's was surrendered back.

Q. When was it issued?

A. The stock-book says July 28, 1908.

Q. Was it ever surrendered back to the company?

A. December 12, 1908.

Q. Had he paid anything on his stock?

A. Yes, sir; I think he paid for his stock.

Q. Do you know?

(Testimony of Sidney Stewart.)

Mr. HEILIG.—There is another item “F. E. Johnson” on this list, “December 12, 200 shares.” [335]

A. Well, I can’t tell from the books here, without tracing that up, just how that payment was made of July 28th.

Mr. McGINN.—Q. You don’t know?

A. I don’t recall. I don’t remember.

Mr. McGINN.—We will pass that for the time being.

Mr. HEILIG.—What is that?

Mr. McGINN.—F. E. Johnson. He has nothing there to show whether he paid for it or not and he will look that up.

Q. J. L. Tobin.

A. His name don’t appear on this stock-book.

Q. He was never a stockholder of the corporation?

A. Among the original stock subscription notes, his name appears.

Q. There was never any stock issued to him by the corporation?

A. No, sir; no stock certificate issued to him.

Q. Where the stock has not been issued to these people, it is not included in the paid-up capital stock or subscribed capital stock of the bank, is it?

A. These that you have been speaking of had been carried up to July 20th in the treasury stock.

Q. They were carried in the treasury stock?

A. Yes, sir.

Q. But there was never any stock issued to them?

A. Never any stock issued to them.

Q. Harry Cribb; 5 shares.

(Testimony of Sidney Stewart.)

A. The same way with him.

Q. S. Hall Young? A. The same way with him.

Q. A. J. Nordale? A. The same way with him.

Q. Barrett & Sickinger? A. The same way.

Q. E. A. Stewart? A. Yes, sir. [336]

Q. How many shares? A. Five shares.

Q. Had he ever paid anything on those shares?

A. Yes, sir.

Q. How much? A. He paid \$500.

Q. And they refunded him the \$500 back?

A. Yes, sir.

Q. On what date was the refund made?

A. July 23, 1908.

Q. S. R. Weiss?

A. No stock ever issued to him.

Q. His name doesn't appear as a stockholder?

A. No, sir. He gave his note for stock, and it was charged to treasury stock on July 28th, and credited—(Interrupted).

Q. No stock ever issued to him?

A. No stock ever issued to him.

Q. Osmond Olson? A. Yes, sir.

Q. How many shares? A. Twenty shares.

Q. Did he ever pay anything on that stock?

A. Yes, sir.

Q. How much? A. \$2,000.

Q. Was that stock afterwards cancelled?

A. That was afterwards cancelled.

Q. On what date? A. August 5, 1908.

Q. A. J. Williams? A. Yes, sir.

Q. Five shares? A. 5 shares. [337]

(Testimony of Sidney Stewart.)

Q. Did he ever pay anything on it?

A. He paid \$500.

Q. That is marked (Reads from paper): "Cancelled 4 day of August, 1908?" A. Yes, sir.

Q. And returned to treasury stock?

A. Yes, sir.

Q. Then this stock that was cancelled was returned into the treasury as treasury stock?

A. Yes, sir.

Q. R. R. Myers.

A. 10 shares, August 8th, cancelled.

Q. Did he ever pay anything on that?

A. Yes, sir. He paid \$250, and that was refunded to him.

Q. That is all he ever paid on it, was \$250?

A. 250.

Q. Of course, the stock was never delivered to him? It was merely made out, and never delivered.

A. The certificate is still attached in the book.

Q. It doesn't bear any indorsements on the back of it? A. No.

Q. D. Courtemanche? A. Yes, sir, 5 shares.

Q. Did he ever pay anything on it?

A. He paid \$500.

Q. Where does it show that he ever paid the money?

A. This note number 2231, and number 2232, made by Dave Courtemanche, for \$125 and \$375, marked paid June 1st.

Q. Were they paid by the cancellation of the stock, or were they paid in money?

(Testimony of Sidney Stewart.)

A. No, they were paid in money.

Q. Were those notes paid? [338]

A. Those notes were paid, yes, sir, both marked "paid."

Q. Both marked paid? A. Yes, sir.

Q. When was that stock cancelled?

A. On the 6th day of August, 1908.

Q. E. M. Keyes is next on the list. How many shares of stock did he have, if any?

A. He gave his notes for stock, and they were cancelled and taken out of the stock afterwards.

Q. When was that done?

A. No stock was issued to him.

Q. No certificate ever issued to him?

A. No, sir.

Q. Does his name appear in the stock-book?

A. No, sir.

Q. He is in the same position as these others?

A. Yes, sir.

Q. The stock always remained in the treasury?

A. Yes, sir.

Q. And never was issued?

A. A certificate never went out.

Q. The stock was never issued. It remained in the treasury all the time.

A. Well, he is not recorded on the stock-book. The stock was outstanding in the treasury stock account on their general statement, but no certificate of stock was given to Mr. Keyes.

Q. There was no certificate ever made out, and his name does not appear as a stockholder on the

(Testimony of Sidney Stewart.)

books of the company?     A. No, sir.

Q. Oscar Goetz?     A. Yes, sir.

Q. How many shares?     A. 10 shares.

Q. Did he ever pay for his stock?     [339]

A. I believe he paid for his stock and the stock was issued to him.

Q. Do you know whether or not Courtemanche was indebted to the bank at the time they cancelled his stock or not?     A. He was, yes, sir.

Q. In what amount?

A. One note I know of for \$200.

Q. And this money that he received from his stock went in payment of that note?

A. \$200 of it, yes, sir.

Q. And do you know whether Oscar Goetz was indebted to the bank at the time his stock was cancelled?

A. No, I don't know, without looking it up.

Q. Can you look it up?

A. There might have been some note held by the bank at that time. That I couldn't tell. But there was no note that was paid with the refund, as appears there.

Q. G. A. Vedine?

A. Vedine is in the same condition as those others.

Mr. RIDER.—Q. What condition?

A. That there was no stock issued to him. His name don't appear on the stock-book.

Mr. McGINN.—Q. McDonald. I don't know what his initials are. They are not given here.

A. He is in the same condition as Vedine.



(Testimony of Sidney Stewart.)

Q. Did he ever pay any money to the bank on his subscription?     A. McDonald?

Q. Yes.     A. No, sir.

Q. When was his stock cancelled?

A. October 23d, I think. I can tell that from the stock-book, the treasury stock account in the general ledger. [340]

Q. Do you know whether he owed the bank any money at that time?     A. I do not.

Q. Can you ascertain?

A. It would be pretty hard to tell. While he gave these notes he gave for this stock—(Interrupted).

Q. Outside of that?

A. It would be a pretty hard thing to tell that.

Q. B. E. Johnson?     A. He had 25 shares.

Q. Are you sure of that?

A. B. E. Johnson, 10 shares. "25" was the number of the certificate.

Q. Did he ever pay anything on this stock?

A. Yes, sir. That certificate was paid for, \$1000.

Q. Was the money subsequently refunded to him?

A. It was subsequently refunded.

Q. What date?

A. Under the date of November 19th, I have there.

Q. Was he indebted to the bank at that time?

A. Yes, sir.

Q. In what amount?

A. There was a note made by David Strandberg and Strandberg Brothers, and "J." Johnson.

Q. What was the amount of that note?

(Testimony of Sidney Stewart.)

A. The principal amount in that note was \$15,000.

Q. When was the note executed?

A. November 5, 1908.

Q. And the Strandberg Brothers, and another Strandberg had 110 shares of stock, didn't they?

A. 110 shares, yes, sir.

Q. That stock was paid for, wasn't it, and issued to them? [341]

A. That was paid for.

Q. And a stock certificate issued to them. Do you remember when they paid for it?

A. I don't remember. (Examines some books.) Yes, sir, those certificates were issued.

Q. The stock was paid for in June and July, wasn't it? A. July, I believe, 1908.

Q. And the Johnson stock was also paid for at that time?

A. I presume at the same time. June 3d it was issued.

Q. Strandberg Brothers and Johnson were operating on Ester Creek? A. I don't know.

Q. They borrowed \$15,000 from the bank in November? A. Yes, sir.

Q. And in payment of that note they surrendered up, that is, Johnson surrendered up his 10 shares of stock, and the Strandberg Brothers surrendered up their 100 shares of stock and Emma Strandberg surrendered her 10 shares?

A. No. Emma Strandberg's went to her general credit on deposit.

(Testimony of Sidney Stewart.)

Q. It was the stock of Johnson and Strandberg Brothers that was applied on this note?

A. Of \$11,000, that was applied on this note of \$15,000.

Q. And the balance was paid in cash?

A. The balance of the note, \$4,000.00 was paid in cash.

Q. In other words, the bank accepted this stock as payment upon their obligations, that is, the obligations of Strandberg Brothers?

A. That was towards the payment of that \$15,000 note.

Q. Was Emma Strandberg indebted to the bank at that time?     A. I don't know.

Q. Is there any means of telling?

A. There was no note paid when her stock was cancelled or [342] refunded. That was placed to her deposit account, \$1000.

Q. Next we have, John Clifford.

A. John Clifford, 2 shares.

Q. Did he pay for it?     A. Yes, sir.

Q. And it was afterwards cancelled?

A. That was afterwards cancelled, February 9, 1909.

Q. Did he owe anything to the bank at that time, do you know?

A. I don't know. There was no note paid at that time.

Q. How was this money refunded; paid to Clifford, placed to his account, or what?

A. No, I don't know that he had a deposit ac-

(Testimony of Sidney Stewart.)

count. I can't find any credit on the deposit, or any credit of any loans. Unless there is some credit of his account—A credit was given to him in some manner, because there is a debit to treasury stock.

Q. George Jestel? A. 5 shares.

Q. Did he pay for it? A. Yes, sir.

Q. The stock was subsequently cancelled, was it?

A. Cancelled and returned February 19, 1909.

Q. These certificates that you have here, all show that they were cancelled by B. R. Dusenbury, either as cashier or secretary?

A. Well, I have noticed his name on a great many of them.

Q. Have you found the name of anybody else on them?

A. Here is one: "J. A. Jackson, Secretary."

Q. That was cancelled by the issue of number so and so. Other stock was issued for that. But I mean these: Here is one by Dusenbury, Secretary.

A. By Dusenbury, Secretary. [343]

Q. And this next one, "redeemed," isn't it?

A. That is the one we were just talking about.

Q. What does that show?

A. Redeemed and cancelled February 9, 1909. B. R. Dusenbury, Secretary.

Q. And this one, Osmond Olson reads: cancelled by refund to J. A. Jesson, per instructions from Osmond Olson. That is also signed by Dusenbury as secretary. A. Yes, sir.

Q. And this certificate, W. G. Cassels, cancelled July 16, 1908, by Dusenbury, Secretary. George Jes-

(Testimony of Sidney Stewart.)

tel; that was cancelled when?

A. February 19, 1909.

Q. Cancelled and retired, B. R. Dusenbury, Cashier. Now, do you know whether or not Jestel was indebted to the bank at that time or not?

A. I don't know, without looking—It is almost impossible—at the list of loans.

Q. Have you any memorandum of what became of this money?

A. Yes, sir, it was placed to his deposit account.

Q. His name appears in this bad debt account, doesn't it? A. No, sir.

Q. Now, the next is Hart & McConnell, 10 shares?

A. Hart McConnell, 10 shares.

Q. When was that cancelled by Dusenbury?

A. June 10, 1909.

Q. June 10, 1909, Dusenbury, Cashier. Do you know whether he was indebted to the bank at that time or not, I mean Hart & McConnell?

A. I do not.

Q. Do you know what disposition was made of the money? [344]

A. It was deposited to their deposit account.

Q. How much was deposited to them?

A. \$1,000.

Q. Louis Enstrom?

Q. Was any stock issued to Louis Enstrom and Oscar Enstrom? A. Yes, sir.

Q. How many shares each?

A. 5 shares was issued to Louis Enstrom and 5 shares to Oscar Enstrom.

(Testimony of Sidney Stewart.)

Q. What stock was surrendered up, on what day?

A. The certificate is marked August 24, 909.

Q. It is marked: "Cancelled. Dusenbury, Secretary." A. Yes, sir.

Mr. HEILIG.—Q. You mean the certificate was marked: "Cancelled August 24, 1909"?

A. Yes, sir.

Q. Which one is that?

Mr. McGINN.—That is Louis. How about Oscar?

A. The same date marked "Cancelled. Dusenbury, Secretary."

Q. Do you know whether or not they were indebted to the Fairbanks Banking Company at that time? A. No. I do not.

Q. Do you know what disposition was made of the money, if any was paid them for their stock?

A. There is a credit August 24, 1909, to Enstrom Brothers, \$1000 account 10 shares. [345]

Q. H. B. Parkin.

A. Certificate for 5 shares, dated May 1, 1908. Certificate for 5 shares, dated September 14, 1908.

Q. Making in all 10 shares? A. 10 shares.

Q. When does it appear from the certificate that that stock was returned to the treasury?

A. This is marked: "Cancelled October 28, 1909, J. A. Jackson, Secretary." That is certificate number 17.

Q. Of date?

A. Of date May 1, 1908. The one dated September 14th, certificate number 71 for 5 shares; "Cancelled October 28, 1909, J. A. Jackson, Secretary."



(Testimony of Sidney Stewart.)

Q. Now, I believe that you testified in your direct examination that that money was paid D. Michie per Parkin, or something of that kind. Do you know whether or not that money was paid to H. B. Parkin for that stock? It is: "D. Michie on account of Parkin stock," isn't it?

A. It appears that under date of October 28, 1909, when these two certificates were cancelled, that a note, date May 27, 1909, number 2921,—a memorandum note it was,—made by D. Michie for \$1000, was cancelled.

Q. You say that it was made by D. Michie. The memorandum of the note wouldn't have been made by him?

A. The memorandum note, no, sir. The memorandum note would not have been made by him. I am taking it from the register, under "maker of note" "D. Michie," and over to the right a notation "memorandum." That had been made by some officer of the bank, presumably by some officer of the bank.

Q. What does this mean here (Indicating).

A. This is a memorandum on the charge to treasury stock. It [346] states: "Stock notes credited B. R." (bills receivable). Here is a credit to bills receivable, Note 2921, \$1000. Memorandum.

Mr. McGINN.—"Stock notes charged bank." We would like to read this in evidence.

Mr. RIDER.—All right.

Mr. McGINN.—(Reads): "October 28, 1909, debit treasury stock"—

(Testimony of Sidney Stewart.)

The COURT.—What is that piece of paper?

Mr. McGINN.—The debit ticket (Reads): “D. Michie, account Parkin stock, \$1000; Aleck Cameron, \$100; Edith McCormick \$200; J. W. McCormick, \$200. Total \$1500. Stock notes credited B. R.” Signed “J.” And the credit is: “October 28, 1909, credit B. R. number 2922 Michie \$1000; #2225, Aleck Cameron \$100; 2221, Edith McCormick, \$50; 2222 Edith McCormick, \$150; 2223, J. W. McCormick, \$50, 2224, J. W. McCormick \$150. Total \$1500. Stock notes charged back.” I will ask you to state whether or not Aleck Cameron ever paid for his stock, and whether there was ever any stock issued to him.

A. The stock ledger, page 80, shows Aleck Cameron under date of August 20, 1909, transfer 4, certificate number 80, 1 share. On the other side; October 28, 1909, certificate number 80 is charged. The certificate of stock is dated August 20, 1909, for one share, and it appears never to have left the stock-book.

Q. Never to have been signed?

A. It is not signed by the president. It is signed by B. R. Dusenbury, Secretary.

Q. Can you state whether or not he ever paid for that share of stock?

A. No, sir. I am satisfied he did not, because the note that was originally given is this same number 2225 which is credited here at the time it was charged back. [347]

Q. They just charged off the note and took back

(Testimony of Sidney Stewart.)

the stock.      A. Yes, sir.

Q. Then Edith McCormick and J. W. McCormick.

A. The same thing in regard to the McCormicks as with the Cameron.

Q. J. W. McCormick was indebted to the bank at that time besides that note for his stock?

A. I am sure I don't know.

Q. Could you refer to this list and tell us—the list of notes that you say the receiver now has in his possession? (Handing same to witness.)

A. That note is number 3,635, which is dated October 6, 1910. That was not given until October 6, 1910. (Indicating on list.)

Q. You don't know whether or not at that time he was indebted to the bank?

Mr. RIDER.—At what time?

Mr. McGINN.—At the time the stock was cancelled.

A. No, I do not know.

Q. Francis H. Taylor.

A. A stock note of Francis H. Taylor was cancelled the same as the McCormick note, and the same follows with reference to the stock.

Q. Who was that taken by?

A. Cancelled by J. A. Jackson, Secretary, November 11, 1909.

Q. Both the McCormick certificates and the Cameron certificate were cancelled by Jackson, as appears upon the face of the certificates.      A. Yes, sir.

Q. McGowan & Clark, \$500.

A. The same would apply to McGowan & Clark as

(Testimony of Sidney Stewart.)

applies to McCormick. [348]

Q. Horton & Dunham.

A. The stock ledger shows that June 26, 1908, there was issued to them certificate number 34 for 5 shares, which, on January 18, 1910, was returned to treasury stock, returned to the bank and cancelled. They had paid their original stock subscription notes, and paid for their stock, and took their stock certificate, and, when it was returned, the \$500 was credited to their deposit account.

Q. Do you know whether or not they were indebted to the bank at the time or not? A. No, I do not.

Q. Can you tell from any records that you have?

A. There was, I believe, two notes in the receiver's hands at one time, which were afterwards paid, but I don't recall the numbers. If I knew the numbers of those notes, I could trace them and see what the dates were.

Q. How many of these stock certificate notes, where you say the stock has been cancelled, has the receiver in his possession and which have never been surrendered up to the parties whose stock was cancelled?

A. Stock certificate notes that were cancelled?

Q. Not the notes that were cancelled. But how many notes have you in your possession—how many stock subscription notes have you still in your possession? A. Unpaid?

Q. Yes. Those are the only ones you would have, would be the unpaid ones.

A. You mean of the original, first notes. There is John Collins.

(Testimony of Sidney Stewart.)

Q. Have you still the note of J. W. McCormick in your possession?

A. I believe the cancelled note. [349]

Q. It is cancelled, is it?

A. I believe I have that note here.

Q. And Edith McCormick.

A. Yes, sir. (Hands same to McGinn.)

Q. Were these renewal notes that were given for the stock?

A. No, they have the original number on them.

Q. They are all marked "paid," are they not?

A. Yes, sir.

Q. All of those notes that were taken for the stock—for which the stock was cancelled, are all marked "paid," are they?

A. They are marked "paid" on the loans and discount register here, which shows that the note was paid, was cancelled, and the stock cancelled.

Q. They are stamped "paid" upon the face, are they not?

A. All that I have; all that I know of.

Q. Were those stock notes included in any of the lists of bad debts, or of debts that were then due and unpaid, which you testified the other day were still in the hands of the receiver?

Mr. RIDER.—Which stock notes are you asking about now; the ones that are cancelled?

Mr. MCGINN.—Yes, that are cancelled.

A. The ones that have been cancelled?

Q. Yes. A. No, sir.

Q. They were not included in any of those totals

(Testimony of Sidney Stewart.)

that you gave us the other day.

A. A cancelled note was not included, no, sir.

Q. I asked you the other day to figure up, if you could, or to give me the figures, on the amount of interest that had been paid upon these stock notes.

Can you tell me that? A. \$8,796, approximately.

Q. Were you able to figure out the amount that had been paid [350] upon these various notes that you spoke of here the other day upon which you said no interest had been paid and upon which the partnership received interest, and which you figured up to be about \$7,500 worth of interest?

A. I had in mind at that time that, in order to do that, I would have to go through the account of the Sundries Old Bank kept on the general ledger of the corporation, but I believe the payments which we made on those notes should be shown on the partnership book credited to the doubtful account.

Q. There were only three notes in the doubtful account that were taken over by the partnership, the notes of three persons. What I want to get at is this: There was credited to the partnership on the 23d day of March, 1908, the sum of \$35,500 and some odd dollars, or whatever it is— A. Yes, sir.

Q. You testified that, on the notes turned over, interest had only been paid to the extent of some \$32,000, and that there was about \$7,500 of interest that was paid the partnership which had never been collected. Now, what I want to show is the amount of payments which were made upon these notes upon which you say no interest had been paid. Could you



(Testimony of Sidney Stewart.)

approximate it? In other words, if the payments that had been made upon those notes had been applied upon the interest account instead of upon the principal of the note, would it have been sufficient to have made that sum of \$7,500?

A. I understand you now. I will have to think about that a minute. Well, it would be just a guess. I have no doubt that there was principal enough paid on the notes that were turned over, on which this \$39,000 interest was figured—there [351] was enough of principal paid, which was applied on principal, which, if it had been applied on the payment of interest, would have paid the full \$39,000.

Q. Now, I wish you would refer to the daily balance of April 16, 1910, of the Fairbanks Banking Company. A. (Opens book.) Yes, sir.

Q. That was four days after the declaration of the dividend, was it not?

A. The dividend was declared on the 12th or 13th, I don't remember which.

Q. What was done with that dividend?

A. That was declared by the Fairbanks Banking Company?

Q. Yes. A. Paid to the stockholders.

Q. When were the first payments made, can you tell?

A. Under date of April 13th the dividend account is credited with \$33,720.

Q. That was the amount of the dividend?

A. That was the amount of the dividend. From this statement, there were no payments made until

(Testimony of Sidney Stewart.)

April 15th. On April 15th the balance is \$21,720.

Q. Now, to refer again to April 16th, can you tell me what the daily balance shows was the net profits of the Fairbanks Banking Company then?

(Witness examines book and does some figuring with a pencil.)

Q. What does the interest account show?

A. There is a credit of \$12,969.98.

Q. And the interest due from banks?

A. Interest account banks, \$265.50.

Q. That is interest on bank balances?

A. That is earnings of interest, account of bank balances. [352]

Q. Then your exchange?

A. Exchange is \$988.45.

Q. Safe deposit? A. \$567.50.

Q. Rents? A. \$1,165.

Q. Dust exchange? A. \$508.33.

Q. Profit and loss? A. \$1,000.

Q. Warehouse? A. \$290.50.

Q. Undivided profits? A. \$1,254.75.

Q. Making a total of? A. \$19,010.44.

Q. Referring to expense and bad debt accounts; what does the bad debt account show on that date?

A. \$43.62.

Q. Expense? A. \$13,764.04.

Q. Interest, savings? A. \$658.43.

Q. And that amounts to how much?

A. \$14,466.09.

Q. Subtract that from the \$19,010.44.

A. \$4,544.35.

(Testimony of Sidney Stewart.)

Q. Now, these items I have given include all of the earnings account at that time.     A. Yes, sir.

Q. And include all the bad debt and expense accounts.     A. Yes, all as shown by the books.

Q. So that would show a net profit upon that date of how much?     A. \$4,544.35.

Q. How much of the dividend had been paid out on the 16th day of April?     A. \$18,100.

Q. There was still \$15,000 approximately of the dividend money on hand.

A. \$15,620. [353]

Q. According to your testimony the other day, I believe that there was something like \$900 less than the undivided profits account that was declared as a dividend—\$970.18.

A. That was of date April 13th, 1910, that I testified to the other day.

Q. The dividend was declared on the evening of the 12th?

A. That was the date of April 13th when the \$33,720 was credited to dividend account.

Q. Did you figure out the difference there?

A. Yes.

Q. What is it?     A. \$959.67.

Q. So, then, on the 16th, it shows that there was a profit of \$4,544.35. That shows that the bank must have collected, between the 13th and the 16th, the sum of \$4,544.35 and this \$959.67, or a total of \$5,504.02. Isn't that correct?

Mr. RIDER.—We object to that question. That does not necessarily follow. If he wants to know

(Testimony of Sidney Stewart.)

what the bank did collect—

Mr. McGINN.—I will do that, but I can't do it all at once.

The COURT.—It is cross-examination.

Mr. McGINN.—Q. Was that correct?

A. It would practically amount to that. Yes, sir.

Q. Where did that money come from, or that profit come from?

A. Well, the balance to the credit of interest earnings on September 13th, \$7,932; while the credit to interest account on the 16th—(interrupted).

Q. What was it on the 12th?

A. \$7,903. Practically no change there. But on the 16th it is increased to the amount of \$12,969.98.

Q. So that it shows that interest had been paid in between the 12th and the 16th amounting to the sum of \$5,000. A. Approximately \$5,000.

Q. Were there any earnings from any other source? [354]

A. No material change; small amounts.

Q. A small amount of earnings?

A. Yes, sir. Two or three dollars.

Q. The interest that was paid was interest that was due and earned on notes of the bank. Isn't that true? A. Yes, sir.

Q. And it was for interest that had been earned prior to April 12, 1910. A. Yes, sir.

Q. I will show you Plaintiff's Exhibits "JJ," "KK" and "LL." What date do they bear?

A. April 12, 1910.

Q. Where were they executed?

(Testimony of Sidney Stewart.)

A. At Fairbanks, Alaska.

Q. And all made out in favor of the Washington Trust Company.     A. Yes, sir.

Q. Each for the sum of \$50,000.     A. Yes, sir.

Q. Signed: Fairbanks Banking Company. By E. T. Barnette.     A. E. T. Barnette, President.

Q. And indorsed by E. T. Barnette.

A. Yes, sir

Q. And all stamped upon the face: "Paid July 20, 1910."     A. Yes, sir.

Q. Now, do the books of the bank show that the Fairbanks Banking Company at any time borrowed from the Washington Trust Company the sum of \$150,000?

A. I believe there is only one entry in their bills payable account of \$200,000. That was the Dexter Horton notes. [355]

Q. Nothing in the books to show that at any time the Fairbanks Banking Company borrowed from the Washington-Trust Company the sum of \$150,000.

A. Not on this ledger, or on these books.

Q. When were these amounts credited to the account of the Fairbanks Banking Company, if ever, by the Washington Trust Company? Have you got the statement of the Washington Trust Company covering that?     A. Yes, sir.

Q. Can you get those?     A. Yes, sir.

(By Mr. RIDER.)

Q. Mr. Stewart, you were inquired of concerning certain indorsements that had been made upon the original stock subscription notes, or the equivalent

(Testimony of Sidney Stewart.)

thereof, which are now in the hands of the receiver, and you testified to certain indorsements that were made thereon respecting the notes of John Collins, C. J. Robinson, D. H. Jonas, O. E. Tackstrom, McMullen Brothers, Ray Brumbaugh and Mr. Claypool. Have you those notes with you? [356]

A. Yes, sir.

Q. The John Collins note first. What is the indorsement on that note of April 15th or 16th, or is there any indorsement of that date?

A. April 15, 1910. Interest paid to 4/15/10, \$37.50. April 15/10. Paid on account \$2.50.

Q. Will you look at the books and see what those credits consist of? A. That was dividend.

Q. Do you know that without looking at the books? Mr. McGINN.—What was the amount?

A. \$40.

Q. You say you know that was from the dividend?

A. Yes.

Mr. RIDER.—Q. Were those indorsements made by applying the dividend of Collins?

A. By applying the dividend of Collins on his note.

Mr. McGINN.—If he knows, I am satisfied. I think that is the case myself.

Mr. RIDER.—Q. Are you able to state that that is a fact? Or do you (to Mr. McGinn) concede it to be a fact. You say: If he knows, you admit it.

The COURT.—I understood him to say so.

WITNESS.—Yes.

Mr. RIDER.—Q. That is what that arose out of.

A. That arose out of the dividend.



(Testimony of Sidney Stewart.)

Q. Take the C. J. Robinson credit.

A. April 15, 1910. Paid on account \$149. April 15, 1910. Interest paid to date, \$651. [357]

Q. What did those credits arise out of?

A. That was also out of dividend.

Q. Did the dividend make up the entire amount of those credits on the Robinson note?

A. Yes, sir. Those two credits on the note amount to \$800, which was the amount of the Robinson dividend.

Q. Now, the D. H. Jonas note.

A. April 15, 1910, paid on account \$175.29. April 15, 1910, interest paid to date \$824.71.

Q. What did those two credits arise out of?

A. Out of the dividend.

Q. Both those credits were the application of the dividend? A. Yes, sir.

Q. O. H. Tackstrom.

A. April 15, 1910, paid on account \$19.38. April 15, 1910 interest paid to date \$80.62.

Q. What did those two credits arise out of?

A. The dividend to O. E. Tackstrom.

Q. His dividend was applied to make those two credits. A. To make those two credits.

Q. Now, McMullen brothers.

A. April 15, 1910, on account interest \$200.

Q. What did that arise out of?

A. That was the dividend to M. H. McMullen.

Q. Ray Brumbaugh.

A. April 15, 1910, paid on account \$331.17. April 15, 1910, interest to 4.15.10 \$1668.83.

(Testimony of Sidney Stewart.)

Q. What did those credits arise out of?

A. Those two indorsements are the amount of the dividend to Ray Brumbaugh.

Q. And the Claypool note? [358]

A. April 5, 1910. Indorsement on account of interest \$1000.

Q. What did that arise out of?

A. The dividend to Charles E. Claypool.

Q. When you stated, in answer to a question this morning from Mr. McGinn, that the increase in the interest item as shown on their books between April 12th and April 16th arise out of interest that had been paid on notes in the hands of the bank at that time and which had accrued prior to April 12, 1910, do you know whether or not these payments which you have read as being applications of the dividend go to make up that amount of interest standing on the books on April 16, 1910?

A. Well, I have not looked up the credit entries on the books, but the indorsements here of April 15th as shown on these notes undoubtedly include the amount of those dividends.

Q. Will you please figure the amount of those interest indorsements on those notes by the application of the dividend; what the total of it is?

A. The total would amount to \$4,462.66.

Q. What was the total interest item carried on the books of the partnership on April 13, 1910?

A. The credit to interest is \$7,932.74.

Q. What is the credit to interest on April 16, 1910?

A. \$12,969.98.

(Testimony of Sidney Stewart.)

Q. What is the difference between those two items?   A. \$5,037.24.

Q. And of that \$5,000, \$4,462.62 are credits of interest upon the stock notes by way of application of the dividend.   A. Yes, sir.

Q. Do the books give you information by which you can determine whether or not this item of \$12,969.98 credited to interest [359] account is interest collected to April 16, 1910, or merely a computation of accrued interest to that date?

A. This amount of \$12,969.98?

Q. Yes. Can you tell whether that is interest that has been collected, or whether it is merely a computation of accrued interest to that date on the loans.

A. That is interest paid.

Q. Either by application of dividends, or in some other manner?   A. Yes. That is money received.

Q. Now, please turn to the daily statement of August 29, 1908, respecting which you testified yesterday.   A. Yes, sir.

Mr. RIDER.—I wish to read from copy book 1. There are two books marked “1”—from March 16, 1908 to July 10, 1908, marked on the back: “Fairbanks Banking Company telegrams.” I wish to read a telegram copied therein to Kerr & McCord, sent by E. T. Barnette, found on page 175, of date August 20, 1908.

Mr. McGINN.—We object to it. It seems to be a private telegram between E. T. Barnette and his attorneys Kerr & McCord. I don’t know that it is binding upon these defendants.

(Testimony of Sidney Stewart.)

Mr. Rider.—*I* leads down to other matters (Reads):

“We will settle for cash \$50,000, and three notes \$25,000 each due July 15th, August 15th and September 15th next year. Earlier dates will hamper on account bank cannot ship gold bullion earlier in the season. Bank will guarantee notes in preference my giving mortgage, as mortgage might seriously injure business bank. When settlement offered is accepted have the Gold Bar stock transferred to Fairbanks Banking Company from me and deposit for their account with Dexter-Horton. Keep us well pested in regard to. E. T. Barnette.”

Addressed to Kerr & McCord, Mutual Life Building, Seattle, [360] Washington. Dated, Fairbanks, Alaska, August 20, 1908.

Mr. McGINN.—What is the purpose.

Mr. RIDER.—I am going to show what the board did with that wonderful amount of money they had on August 29th.

Mr. McGINN.—Here is a suit between E. T. Barnette and a man named Causten. Barnette wires out that he will settle with them for a certain amount of money. That has nothing to do with this case. Here is a communication between Barnette and his attorneys, and how are these defendants to be bound by that in any way?

Mr. RIDER.—I expect to show that by the minutes of the board of directors' meeting.

The COURT.—It may stand for the present, until I can tell.

(Testimony of Sidney Stewart.)

Mr. RIDER.—I want to read from page 192, a telegram from E. T. Barnette to E. S. McCord, dated September 2, 1908, in the same copybook (Reads):

“Fairbanks, Alaska, September 2, 1908. E. S. McCord, Mutual Life Building, Seattle, Washington. Have settled Caustens \$75,000 cash, \$25,000 January 1st, \$25,000 July 1st. Papers mailed. See Dexter. Telegraph as soon as you have closed.”

Mr. McGINN.—I make the same objection, and move that it be stricken out.

The COURT.—The same ruling.

Mr. RIDER.—Next, I want to read a telegram from the Fairbanks Banking Company, found in the same copy book, page 193, dated Fairbanks, Alaska, September 2, 1908 (Reads):

“Dexter-Horton & Company. Seattle, Washington. Upon receipt of certificates of stock Gold Bar Lumber Company covering 96 shares in our name, charge out account and pay E. S. McCord \$75,000 for account of Barnette.” Signed: “Fairbanks Banking Company.” [361]

Mr. McGINN.—We make the same objection.

The COURT.—The same ruling.

Mr. RIDER.—I wish to read from the minutes of the executive committee of the Fairbanks Banking Company held September 2, 1908.

Mr. HEILIG.—Is this in evidence?

Mr. RIDER.—I am putting it in evidence now.

Mr. HEILIG.—As an exhibit?

(Testimony of Sidney Stewart.)

Mr. RIDER.—I will read it into the record (Reads):

“Minutes of executive committee of Fairbanks Banking Company Fairbanks, Alaska, September 2, 1908. A special meeting of the executive committee of the Fairbanks Banking Company was held at 3–30 P. M. at the office of the corporation. E. T. Barnette, president, presiding. B. R. Dusenbury, Secretary, present. Members present; Jonas, Barnette, Dusenbury, Stark, Hill. Captain Barnette explained to the committee that in the adjustment of the Caustens matter it was required to give the bank’s C-D (certificates of deposit) for \$25,000 due January 1st, 1909, and \$25,000 due July 1, 1909 respectively, and that he and his wife would indorse each of the certificates. It was moved by Jonas, seconded by Hill that the certificates of deposit for \$25,000 each be issued. Motion carried. Captain Barnette gave his notes to the bank for the amounts due on the respective dates.”

Then I wish to read from the minutes of the board of directors of the Fairbanks Banking Company held on September 12, 1908, the following (Reads):

“Minutes of meeting of the board of directors of the Fairbanks Banking Company. Fairbanks Alaska, September 12, 1908. The regular monthly meeting of the board of [362] directors of the Fairbanks Banking Company held at the office of the corporation at Fairbanks, Alaska at 3–30 P. M. E. T. Barnette, presiding. B. R. Dusenbury, secretary, present. Members present; Jonas, Flygar,



(Testimony of Sidney Stewart.)

Barnette, Jesson, Yarnell, Ryan, Robinson, Stark. James W. Hill, Vice-president, and John L. McGinn, attorney for the bank, were also present. The minutes of the meeting of the executive committee held on the following dates were read, and on motion passed and duly seconded, were approved, ratified and passed as the action of the board." Listing, among others, September 2."

Q. Now, Mr. Stewart, will you examine the account of E. T. Barnette, or turn to the account of E. T. Barnette on the books of the Fairbanks Banking Company during the months of August and September, 1908.

A. This ledger starts on the 1st of September that I have here, and the August account is in another ledger.

Q. What entries of debit do you find on September 2, 1908?

Mr. McGINN.—We make the same objection to all of this testimony.

The COURT.—Overruled.

Mr. RIDER.—Q. What was the condition of his account on that date.

A. Under date of September 2, 1908, in the deposit ledger of the Fairbanks Banking Company the account of E. T. Barnette is charged \$75,000.

Q. After that charge of \$75,000 had been made to E. T. Barnette's account, what condition does it leave his account in?

A. His account appears as an overdraft of \$16,521.36.

(Testimony of Sidney Stewart.)

Q. Can you find the corresponding credit for that \$75,000? When his account was charged with \$75,000 what credit was made?

A. In the general ledger, the account of Dexter-Horton & Company [363] Seattle, under date of September 2, 1908 is credited \$75,000. Notation in the ledger "T Barnette." It means telegraphic transfer.

Q. The word "Barnette" appears there?

A. Yes, sir.

Q. In the minutes of the executive committee from which I read there is reference to two certificates of deposit, each in the sum of \$25,000, and also about the taking of the notes of Mr. Barnette and his wife. What record do you find of them?

A. In the loans and discount register, under date of September 2, 1908, note number 2443, recorded as maker E. T. Barnette in amount of \$25,000 due January 1, 1909, marked "paid 1/2/09"; Note number 2444, same date, E. T. Barnette, \$25,000, due July 1, 1909. \$25,000 paid 3/25/09. And in the certificate of deposit ledger, under date of September 2, 1908, certificate of deposit number 589 for \$25,000, and 590 for \$25,000; both issued in the name of E. T. Barnette; marked "due January 1, 1909" on the first one, and the second one marked "due July 1, 1909." The first one is marked "paid 1/2/09," and the second one marked "paid 3/23/09."

Q. That is certificates of deposit. A. Yes, sir.

Mr. RIDER.—Now, I want to read from the same letter copybook, being copybook i of telegrams from

(Testimony of Sidney Stewart.)

March 16, 1908 to July 1, 1909, from page 167 (Reads):

“Telegram. Fairbanks, Alaska, August 14, 1908. Messrs Kerr & McCord, Mutual Life Building, Seattle, Washington. Refer to your telegram of 5th, refer to your telegram of 13th regard my financial condition. Capital stock old bank \$200,000 due me is on deposit with new bank payable in one year after release has been executed Gold Bar stock without interest. If you can settle case, endeavor to make [363 $\frac{1}{2}$ ] cash payment as small as possible, balance on time. It is imperative you release Gold Bar. New bank will require it to procure credit within thirty days.”

From the same copy book, page 184, a telegram dated Fairbanks, Alaska, August 27, 1908 (Reads): I will read this portion:

“Dexter Horton & Company, Seattle Washington. Sir:—We own four-fifths entire stock Gold Bar Lumber Company. Expect to get release in the near future. What amount of credit can you extend us on same for the winter when it has been deposited with you, having in mind release Caustens now in hands of Griffin trustee.”

Mr. McGINN.—At this time I move that all the testimony that has been given relating to the Caustens—Barnette suit, and the communications between Barnette and his attorneys Kerr & McCord, and the action of the bank in loaning Barnette \$50,000, which is shown here to have been paid, be stricken out for the reason that it is irrelevant, in-

(Testimony of Sidney Stewart.)

competent and immaterial, not pertinent to the issues in this case.

The COURT.—Motion denied, with leave to renew it.

Mr. CLARK.—We note an exception.

Mr. RIDER.—There is one telegram that I have not with me, but I have a copy of it. It is of date September 5, 1908.

Mr. McGINN.—No objection on the ground that it is not the original. You may read from the copy that you have.

Mr. RIDER.—Then I will read into the record the telegram from Dexter Horton & Company to the Fairbanks Banking Company, of September 5, 1908 (Reads):

“In reply to your telegram of 4th cannot advance on Gold Bar stock; will only advance against shipment of bullion. We are without advices about sending by express company [364] any additional shipments. If satisfied, will advance McCord payment.

The COURT.—I do not understand what you contend the effect of that evidence would have on the financial condition of the bank.

The COURT.—I think it may stand for the present. I do not see that it throws very much light on the solvency or insolvency of the bank at that time. But it may stand in explanation of where the funds of the bank were invested at that time.

Mr. McGINN.—We except.

Mr. RIDER.—Q. Mr. Stewart, I call your atten-

(Testimony of Sidney Stewart.)

tion to Plaintiff's Exhibit "MM," being the list of notes which was prepared by you as stated by you in your testimony the other day, and which notes are now in the hands of the receiver. I call your attention to the columns of figures in the center of the page between the name of the note and the amount of the note, and ask you what those two columns are; what they are intended for.

Mr. McGINN.—We object as immaterial, and not redirect. They show for themselves. It is when made and when due. He can mark them on the exhibit.

Mr. RIDER.—Mark the head of the first column: "date," and the head of the second column; "Maturity." (Exhibit "MM" so marked.)

Mr. RIDER.—It is admitted that, as provided by section 1 of Article 3 of the By-laws of the Fairbanks Banking Company, the executive committee of the company was composed of the president, first vice-president and three directors; that on April 13, 1908, said section of the By-laws was amended so [365] as to make the executive committee consist of the president, first vice-president, cashier and three directors.

Mr. McGINN.—Yes.

Mr. RIDER.—I wish to read from the minutes of an adjourned meeting of the board of directors of the Fairbanks Banking Company held on April 13, 1908, as follows (Reads):

"It was moved by Jonas, seconded by Robinson, that the president present a written report of the

(Testimony of Sidney Stewart.)

condition of the bank at each monthly session of the board of directors. Motion carried."

Mr. RIDER.—Now, gentlemen, I have checked through these reports to see whether or not that was complied with enough to become a recognized custom of the bank, to present that report. Do you make any controversy about the report being presented?

Mr. MCGINN.—We admit that there were monthly reports made to the board.

Mr. CLARK.—Monthly statements, showing the condition of the bank.

Mr. RIDER.—At each monthly meeting there was a monthly statement made by the president?

Mr. MCGINN.—That there was a written statement.

Mr. RIDER.—That there were written reports made, showing the condition of the bank, according to that resolution.

For the purpose of showing the duties and powers of the executive committee, I wish to read from Article 3 of the By-laws. [366]

Mr. RIDER.—Reading from Section 2 of Article 3 of the By-laws of the Fairbanks Banking Company, entitled "Duties of Executive Committee." (Reads):

"It shall be the duty of the executive committee to pass upon the loans and securities therefor. To advise the president in the matter of the conduct of the business of the corporation. Such committee shall have entire control and supervision of all the property and business affairs of the corporation,



(Testimony of Sidney Stewart.)

and shall have and exercise all the powers and privileges which are possessed by the board of directors.”

And Section 4, which I take is a limitation upon the broad [367] powers of Section 2 (Reads):

“All actions of the executive committee shall be reported to the board of directors at its meeting next ensuing and such action shall be subject to revision or alteration by the board, provided that no rights of third parties shall be affected by any such revision or alteration.”

Q. Mr. Stewart, will you turn to the books of the Fairbanks Banking Company showing the date when the capital stock of the First National Bank came into the Fairbanks Banking Company? This is a matter we left to subsequent agreement, but we seem unable to agree.

Mr. McGINN.—Let’s see if we can agree now.

Mr. RIDER.—See if I can state it: In the month of May, 1909, the Washington-Alaska Bank of Washington and the Fairbanks Banking Company became the owners each of one-half of the capital stock of the First National Bank of Fairbanks, and carried the same on their books in the sum of \$62,500 each. They continued each to own this stock until the 13th of September, 1909, when the Fairbanks Banking Company purchased the entire capital stock of the Washington-Alaska Bank of Washington. Thereafter the stock remained the property of the two banks in the amounts above stated until the 4th day of May, 1910, when the entire stock was sold by the Fairbanks Banking Company to R. C. Wood and

(Testimony of Sidney Stewart.)

John L. McGinn, for the sum of \$125,000; that this sum of \$125,000 was paid to the Fairbanks Banking Company by the said McGinn & Wood either by drawing their checks upon credits which they had with the Fairbanks Banking Company, and the remainder, amounting [368] to \$61,000 in cash, being paid to the Fairbanks Banking Company. The Fairbanks Banking Company then—Was it a charge or a credit, Mr. Stewart? A. Which?

Q. How they applied it on the Washington-Alaska Bank certificate of deposit?

A. The Fairbanks Banking Company issued a certificate of deposit for \$62,500.

Mr. RIDER.—(Continuing.) —issued a certificate of deposit to the Washington-Alaska Bank in the sum of \$62,500 for the portion of the stock belonging to the Washington-Alaska Bank of Washington. That neither of said banks received any dividend upon said stock, not any interest upon the amount invested therein. That is correct, is it not?

Mr. MCGINN.—I am willing to admit that it is correct, except each of the banks carried stock to the value of \$62,500, for you know there was some stock outstanding. But I suppose that was qualifying stock. The admission may tend in a measure to contradict some of the other testimony that has been introduced showing the stock that they carried. For this purpose, I don't think that it makes any difference.

Mr. RIDER.—There were a few outstanding

(Testimony of Sidney Stewart.)

shares. When they got in the \$62,500 that was the full amount.

Mr. McGINN.—That bought up all the stock. I am willing, with that understanding, that it may stand.

The COURT.—It may be considered as an admission, then.

Mr. RIDER.—Q. Mr. Stewart, turn to your books showing the book entries that were made by the Fairbanks Banking Company on receiving from the Washington-Alaska Bank of Washington the dividend in the sum of \$50,000 which was declared by that [369] bank on its capital stock.

Mr. CLARK.—We object as not redirect examination, incompetent, irrelevant and immaterial.

The COURT.—He may answer. (Defendants except.)

Mr. McGINN.—We may be able to agree on that.

Mr. RIDER.—It is a matter of book entry.

Mr. McGINN.—There was \$25,000 of it placed to the undivided profit account of the Fairbanks Banking Company, and \$25,000 of it applied in reduction of what the Fairbanks Banking Company was carrying the stock of the Washington-Alaska Bank at.

Mr. RIDER.—That is all right as to that side of the ledger. Now, on the other side, as to what corresponding charge was made in order to offset those two entries amounting to \$50,000. That is what I want to show.

Q. Give us those entries with regard to that matter, Mr. Stewart.

(Testimony of Sidney Stewart.)

Mr. McGINN.—Is this the book of the Washington-Alaska Bank?

Mr. RIDER.—No. Of the Fairbanks Banking Company.

A. I have not the ledger here of that. I should have the Savings Ledger of the Fairbanks Banking Company here to show that outstanding account.

On April 13, 1910, the Washington-Alaska Bank were carrying F. B. Co.'s C Ds \$125,000. On April 14th they credit \$50,000 reducing certificates of deposit of F. B. Co. to \$75,000. On that same day the balance of the dividend account is reduced \$49,666.68, which was in payment of the dividend, which was paid in that way, by giving the Fairbanks Banking Company credit. Now, the Fairbanks Banking Company carried their certificates, or part of them, I believe, with their savings deposits, and their deposits on the 13th were \$502,858.92, and on the 14th \$452,921.42. I think that change in those balances is the same amount that was received from the [370] Washington-Alaska Bank, but I have not the details of it in any book here. The payment by the Washington-Alaska Bank to the Fairbanks Banking Company was made by indorsement on the certificate of deposit, or whatever it was, that the Washington-Alaska Bank held.

Mr. RIDER.—Any controversy about that transaction?

Mr. McGINN.—No. It seems to me that the manner in which they kept the books doesn't make much

(Testimony of Sidney Stewart.)

difference; it is the transaction itself.

Mr. RIDER.—That is all you can give from the books you have here?      A. Yes.

Q. Now, I want to read concerning the Jestel stock, the following as appears from the minutes (Reads):

“Minutes of the meeting of the board of directors of the [371] Fairbanks Banking Company held at Fairbanks, Alaska, February 13, 1909.

A meeting of the board of directors of the Fairbanks Banking Company was held at 8 P. M. at the office of the corporation, Fairbanks, Alaska.

James W. Hill, Vice-President, presiding. B. R. Dusenbury, Secretary, present. Members present: Robinson, Jesson, Ryan, Hill, Peoples and Jonas.

The matter of the Jestel stock was brought up for consideration and it was the sense of the meeting that it disposition be left to the officers of the bank.”

Now, reading from the minutes of the meeting of the board of directors of the Fairbanks Banking Company, Fairbanks, Alaska, March 12, 1909 (Reads):

“The regular monthly meeting of the board of directors of the Fairbanks Banking Company was held at the office of the corporation at Fairbanks, Alaska, at 9 o'clock P. M. E. T. Barnette, President, presiding. B. R. Dusenbury, Secretary, present. Members present; J. A. Jesson, E. T. Barnette, D. H. Jonas, D. Ryan, Dave Yarnell, C. J. Robinson, John Flygar; L. N. Jesson, Second Vice-president, and John L. McGinn, attorney for the bank, were also present. The minutes of the board meeting of Feb-

(Testimony of Sidney Stewart.)

ruary 13, were read and approved as read.”

Q. Mr. Stewart, I don't recall whether, in answer to Mr. McGinn this morning, you testified respecting the Jestel stock, as to whether the certificate was cancelled or not. Will you look at the stock-book and see what was done with reference to that stock?  
[372]

Mr. CLARK.—He testified that it was refunded and the money placed to his credit.

Mr. RIDER.—All right.

Q. Mr. Stewart, you are acquainted with James W. Hill, a defendant in this action? A. Yes, sir.

Q. Are you acquainted with his handwriting?

A. Yes, sir.

Q. I call your attention to exhibit “F 16.” I want to prove that Mr. Hill signed that letter, which is signed “Jim.”

Mr. MCGINN.—I will ask him (Confers with Jas. W. Hill).

Mr. MCGINN.—Yes.

Mr. RIDER.—I wish to read from letter-book 7, being from date of January 29, 1910, to June 2, 1910, page 253 (Reads):

“April 13, 1910. Washington Trust Company, Seattle Washington. Gentlemen: Enclosed please find resolution as adopted by the board of directors of the Fairbanks Banking Company at their regular monthly meeting held on the 12th day of April, 1910, at 8:30 P. M., together with resolution authorizing E. T. Barnette, President, to borrow up to the amount of \$250,000, signed and sealed as requested;



(Testimony of Sidney Stewart.)

also five notes for \$50,000 each, signed by the Fairbanks Banking Company, By E. T. Barnette, President, and also indorsed by Mr. Barnette, President, and also indorsed by Mr. Barnette individually. We trust you will find these forms filled correctly, and on receipt of same kindly wire us your acceptance."

(Signed) "J. A. JACKSON, Cashier."

Q. Have you examined the reconciliation statement of the Washington Trust Company of Seattle, for the purpose of determining whether or not those notes appear in that statement?

A. I looked those over some time ago, and for a few minutes this noon, but I didn't have time to see if I could trace these notes there. I notice what appears to be a reconciliation in lead pencil on the back of some of those statements, and from the statements it appears that the Fairbanks [373] Banking Company were being credited from time to time for loans, and also being charged for loans when they were paid. And at one time in that reconciliation there is \$200,000 that I notice running in the reconciliation of the account. Those notes do not appear in the general ledger here, and I presume they were in the Washington Trust Company's hands, and they were given credit when their account needed the money. Just how it was treated, I am unable to arrive at, or identify the notes in payment of these. I have not been able to yet.

Q. Do you wish to examine the statements further; not just now, but before you finally conclude?

(Testimony of Sidney Stewart.)

A. No. I am willing to let my statement go as I make it. I think that is what occurred.

Q. That is all you have been able to determine from their books?

A. So far as I have examined them, yes, sir.

Mr. RIDER.—I want to read from the minutes of the meeting of the board of directors of the Fairbanks Banking Company held on July 13, 1908, and which has been received in evidence as Plaintiff's Exhibit "Y," a portion thereof under the head of "Report of officers" (Reads):

"The president submitted a written report in detail showing the condition of the affairs of the bank on July 11, 1908. The report was examined in detail, and on motion duly made and seconded, it was ordered filed. Under discussion of this report, the question of refunding to those desirous of giving up their stock in the Fairbanks Banking Company was discussed, and it was the sense of the meeting that any stockholder desirous of giving up his stock be paid for same and stock returned to the treasury of the bank.

Q. What is the total amount still due and unpaid to the creditors [374] of the Washington-Alaska Bank, as shown by the books of the receiver?

Mr. CLARK.—We object as not redirect examination.

Mr. MCGINN.—And irrelevant and immaterial, and not pertinent to any of the issues in this case.

The COURT.—Objection overruled. (Defendants except.)

(Testimony of Sidney Stewart.)

A. Do you wish to include in that the Barnette trust fund or the depositors?

Q. No, the amount due the creditors of the bank. The Barnette trust fund has nothing to do with this matter.

A. Stockholders; capital stock?

Q. No, excluding the capital stock at present.

A. \$558,335.94. That is of date March 31, 1914.

Q. That is exclusive of the amount due the stockholders? A. Yes, sir.

Q. And what is the amount due the stockholders?

A. \$159,600.

Q. You were inquired of by Mr. McGinn respecting the showing of the Gold Bar Lumber Company as to profits for the year ending October 1, 1907. Are there any papers in the possession of the receiver showing the items of profit and loss for the period from October 1, 1907, to March, 1908?

A. Yes, sir.

Mr. MCGINN.—We object to that as not proper redirect examination.

Mr. RIDER.—To bring the matter up to date.

The COURT.—You may ask him, although I think it was strictly part of the direct examination.

Mr. RIDER.—Q. Have you that statement?

A. Yes, sir.

Q. What does that show? [375]

A. Statement of the Gold Bar Lumber Company October 1, 1907, to March 1, 1908. This is a statement in the files of the bank among the statements of the Gold Bar Lumber Company.

(Testimony of Sidney Stewart.)

Mr. McGINN.—We object because there is no evidence that it was before the directors at the time the bank was purchased. That is March 1st, and the whole transaction was closed up in January or February when they agreed to take over this Gold Bar stock. This is two or three months later than that. There is nothing to show that the directors had any knowledge of that.

Mr. CLARK.—What is the purpose of it?

(Argument.) (Mr. McGinn and Mr. Clark withdraw objection.)

Mr. RIDER.—Q. What does that statement show as to the gross earnings?

A. This statement was made as Loss and Gain. Total loss entry is \$14,034.44, and gain is \$7,516.06.

Q. Leaving a net loss?

A. Net loss of \$6,518.38.

Mr. RIDER.—That is all.

Mr. HEILIG.—Is that the conclusion of your examination of Mr. Stewart?

Mr. RIDER.—Yes.

#### Cross-examination.

(By Mr. McGINN.) Q. What does this statement show that the net resources of the Gold Bar Lumber Company was upon the 1st day of March, 1908?

A. \$451,755.01.

Q. Do you know whether or not the mill had been closed down at that time or not, from the examination you have made of the records? [376]

A. I believe that in 1908 the mill was closed, according to information I find from letters and cor-

(Testimony of Sidney Stewart.)

respondence, not from personal knowledge.

Q. You don't know what these items of loss were?

A. Not at all.

Mr. McGINN.—I ask to introduce this in evidence.

Mr. RIDER.—I have no objection.

The COURT.—It may be admitted (Marked Defendant's Exhibit "2.")

Mr. McGINN.—Q. I wish you would refer to the ledger account of E. T. Barnette on September 2, 1908. (Witness produces book.) That shows, does it not, that upon the 2d day of September, 1908, E. T. Barnette drew his check upon the Fairbanks Banking Company for the sum of \$75,000? A. Yes, sir.

Q. How much did he have on deposit at that time?

A. Before drawing the check?

Q. Yes, sir.

A. On the night of September 1, 1908, there was a credit balance of \$58,489.74.

Q. So, by the drawing of this check of \$75,000, he overdrew his account \$16,526.36? A. Yes, sir.

Q. State whether or not from that time on until the 25th day of October, that overdraft account was gradually reduced?

A. It was reduced, the general checking account and deposit all the way through between those dates until the 23d, when it was reduced to thirty-five nineteen, on the 24th down to twenty-one seventy-six, and on the 25th a credit balance of \$8,728.24 to his credit.

Mr. HEILIG.—What was that credit balance?

A. \$8,728.24. [377]

(Testimony of Sidney Stewart.)

(By Mr. McGINN.) Q. On the 26th what was it?

A. On the 26th was \$13,155.32.

Q. On the 23d of October how much was to his credit? A. \$27,061.36.

Q. And on the 1st of January, 1909?

A. On the 1st of January, 1909, it was \$61,534.14.

Q. When Captain Barnette drew that check of \$75,000 on the Fairbanks Banking Company, he reduced the amount due depositors that much, did he not? A. Yes, sir.

Q. And took that much money away from the institution?

A. The credit for it was money due from banks.

Q. Then upon that date two certificates of deposit were issued; one due the 1st of January, 1909, and one due the 1st of May, 1909, each for the sum of \$25,000. Isn't that approximately correct?

A. I don't remember the due dates, but the amounts are correct.

Q. Wasn't that the time they became due?

Mr. RIDER.—One was due January 1st and one July 1st.

Mr. McGINN.—January 1st and July 1st. The giving of these certificates of deposit didn't withdraw any of the funds from the bank upon the 2d day of September, 1909, did it?

A. No, he gave his notes for those certificates, the same day.

Q. There was no money taken out or withdrawn from the bank on account of them? A. No.

Q. Because they were not then due. And Captain



(Testimony of Sidney Stewart.)

Barnette paid those notes, you say, at the time these certificates of deposit became due; the first he paid upon the 1st day of January, 1909.

A. I believe the certificates were paid on the same dates that [378] the notes are marked paid.

Q. Can you refer to the books and state when it was that the Fairbanks Banking Company first began to do business with the Washington Trust Company of Seattle?

A. About April 15, 1910, is the first entry.

Q. When did the Fairbanks Banking Company credit the account of the Washington Trust Company on account of these notes that were given?

A. Well, they didn't go through this account, as I have examined so far.

Q. You say they began to do business upon the 15th day of April, 1908?     A. 1910.

Q. That is the first business, as far as you know, that the Fairbanks Banking Company did with the Washington Trust Company of Seattle?

A. As shown by their books.

Q. Here is a statement: Fairbanks Banking Company in account with the Washington Trust Company of Seattle, received here May. 23, 1910, that shows that upon the 4th day of April, or 18th day of April, there was a loan made to the Fairbanks Banking Company of \$10,000, doesn't it?     A. Yes, sir.

Q. And upon the 19th day of the same month there was a loan of \$20,000.     A. Yes, sir.

Q. And upon the 20th of the same month \$20,000.

(Testimony of Sidney Stewart.)

A. That is what their statement shows. I take it from that.

Q. That would be before these notes could have reached the outside? A. Yes, sir. [379]

Q. Don't you know as a fact that it is the custom, and banks are obliged, just before the opening of the mining season to get accommodations from the banks outside as a general thing in the way of exchange, overdrafts on account of exchange?

A. I believe they do such things at certain times of the year, but I don't know what the dates are, or what the custom is.

Q. Now, it shows that upon May 5, 1910, there was a loan of \$100,000.00, doesn't it?

A. The statement of the Washington Trust Company on May 5th shows a credit of \$100,000; an entry there "loan."

Q. Do you know what that included?

A. No, sir.

Q. Do you know whether or not there had been a shipment of gold-dust that had been sent out to them at that time?

A. I believe there had. No, not until—The first shipment shows as being a charge to the Washington Trust Company May 26th.

Q. What was the amount of it?

A. \$185,357.91. It would probably be credited two or three weeks or a month later.

Q. You wouldn't know when that would be?

A. No.

Q. Well, isn't it true, from the memorandum you

(Testimony of Sidney Stewart.)

have made from the books, that these notes were sent to the Washington Trust Company of Seattle to cover any overdraft that this bank might have with them at certain periods of the year?

A. I believe that is what I stated.

Q. While the bullion was in transit?

A. Well, I don't know whether that was the understanding or not. [380]

[**Testimony of R. C. Wood, for Plaintiff.**]

R. C. WOOD, called as a witness for plaintiff, after being sworn, testified as follows, to wit:

Direct Examination.

(By Mr. RIDER.) Q. Your name is R. C. Wood?

A. Yes, sir.

Q. And you are one of the defendants in this case? A. Yes, sir.

Q. And you are the same R. C. Wood who was a member of the Fairbanks Banking Company, a partnership, and who was also cashier of the Fairbanks Banking Company, a corporation, and later manager of the three banks known as the Fairbanks Banking Company, the Washington-Alaska Bank, and the First National Bank during the period that they were operating together?

A. I was advisory manager.

Q. Subpoena was served upon you for the production of a certain letter dated February 29, 1908. Have you that letter?

A. I have a copy of a letter that is dated that date and I presume it is a copy of it.

(Testimony of R. C. Wood.)

Q. You have read the letter?      A. Yes.

Q. Can you from your recollection state that it is a copy?      A. I think it is.

Q. Have you any objection to us using this copy as an exhibit, or do you prefer to keep this copy in your possession and supply a copy as an exhibit?

A. I have no objection to your keeping it.

(Marked Plaintiff's Exhibit "OO.")

Mr. RIDER.—I want to ask one more question before I read the letter.    Q. The letter is addressed, and begins, "My Dear Jim." That refers to Mr. James W. Hill?      A. Yes, sir.

Mr. Rider reads Plaintiff's Exhibit "OO." [381]

[Plaintiff's Exhibit "OO"—Letter from R. C. Wood to Jas. W. Hill.]

(Reads:),

"Seattle, February 29, 1908.

My Dear Jim:

I received your telegram to the effect that you did not believe Barnette would agree to the proposition that I made. I would thank you to endeavor to dispose of my stock in the new bank at par. I would want a deposit on it, enough to guarantee its sale, and the balance to be paid as follows—25% on June 1st, 75% on July 1st, with interest at 12% per annum, and notes to be secured by the stock.

In regard to selling my stock, it might be a good idea not to let the public know that I am selling. Of course, I expect to serve as cashier until I am "ousted" or until the next meeting of the shareholders, even though I do dispose of my stock. I guess

you are misinformed when you told me that I was to be secretary and treasurer. It is evident that my efforts have been unsatisfactory to the stockholders of the new bank. One would naturally think that for the length of time I have been with the bank that I was in line for promotion. I shall always have a warm spot in my heart for the Fairbanks Banking Co. and shall always be interested in their success, as it was through my efforts that the bank was started. However, changes are bound to occur.

Sincerely (Signed) "DICK." [382]

**[Testimony of Sidney Stewart, for Plaintiff  
(Recalled).]**

SIDNEY STEWART, a witness for plaintiff, recalled, testified as follows, to wit:

Direct Examination.

Mr. RIDER.—Q. You were asked day before yesterday, the day that Mr. Hurley testified, to prepare a list of the notes named in the paper presented to Mr. Hurley, for which the bank held securities. Have you prepared such a list?

A. I have (Produces paper.)

Q. Is that the list you prepared? A. Yes.

Q. Showing the name of the note and the security held by the bank? A. Yes. [383]

Q. And the amount stated is the amount of the note, is it?

A. Yes, sir. The amount unpaid; the balance unpaid.

Q. The amount unpaid on the note?

A. The amount unpaid.

(Testimony of Sidney Stewart.)

Mr. RIDER.—I offer it in evidence, so that they may have a list of the securities.

Mr. McGINN.—That is at the present time?

Mr. RIDER.—Yes, the securities now held by the receiver. You can examine it and see if you want it more complete.

WITNESS.—In some of the descriptions there, I have used the word “jewelry,” not saying what jewelry it is; and the word “mortgage.” I made it very brief.

(Attorneys for plaintiff and defendants consult together.)

Mr. RIDER.—I would prefer that it be a little more complete, so I will not have this one marked so that a more complete list can be furnished.

WITNESS.—That list is made out to the best of my recollection as to the securities. I have kept no record like they have here in the mortgage securities record. But to the best of my knowledge and belief that list contains everything that we consider as a security at the present time.

Mr. RIDER.—In making the revised list you will have further opportunity to make any corrections, if it should be found necessary. Do you (To defendant's attorneys) wish to cross-examine him now?

Mr. McGINN.—No.

Mr. RIDER.—There are certain properties listed as securities for certain loans, and under the testimony of Mr. Hurley, the notes depend for their value upon these securities. The receiver will admit for the purposes of this suit that the following



(Testimony of Sidney Stewart.)

notes in the amounts stated in this list [384] have sufficient security back of them to make those notes worth the amount that is stated in this list, so as not to necessitate inquiring into the value of the securities. I will read them (Reads): Note of Auten & Frick in the sum of \$100, being number 3053, secured by 4 barrels of whiskey; Note of G. M. Auten in the sum of \$540, being number 3349, secured by jewelry. Note of A. S. Crane, being numbered 2882 in the sum of \$40, secured by jewelry. A. S. Crane and E. A. Crane, being number 2639 in the sum of \$20, secured by jewelry. As to the note of L. S. Ribe, number 3000 in the sum of \$256.50, the list shows that the security for that is \$75,—coming from the city on account of surveying; and the receiver admits for the purposes of this suit that that note is good as to the security of \$75. The note of Smith & Fisher, being number 2834 in the sum of \$112.92, secured by an undivided one-half of fraction opposite 2 below, first tier, left limit, of Ester, and the note of A. J. Williams in the sum of \$150, being number 2767, secured by a ring.

The WITNESS.—I stated a minute ago that that amount was the amount due on the note. That is the principal amount of the note, not considering the interest; the amount that is carried as an asset.

Mr. RIDER.—Q. This is the amount that it is carried at as an asset?

A. On the principal amount of the note. [385]

Mr. RIDER.—I have just presented the list of securities which were used yesterday evening, and

have given counsel a copy of them. On the list is marked with the letter "a" those that were admitted as being sufficient in the amount noted or stated at the time as security for the note. And I ask that the list be marked as an exhibit.

(Marked as Plaintiff's Exhibit "PP.") [386]

**[Plaintiff's Exhibit "PP"—List of Securities Held With Notes.]**

LIST OF SECURITIES HELD WITH NOTES.

Note No.	Makers.	Amount.
3053	Auten & Frick..... 4 bbls. whiskey.	\$100.
3349	Auten, G. M..... Jewelry.	540.00
1587	Berger, D. H..... Mortgage and agreement reundivided $\frac{1}{4}$ interest No. 1 Above Discovery 1st tier L. L. Engineer Creek.	550.
2384	Blodgett, James and R. Shephard..... Deposit account of Shephard Bros. amounting to 1636.53.	1,700.
1975	Barrett, Wm. .... Warehouse 3rd avenue.	8,809.21
2882	Crane, A. S..... " " and E. A..... Jewelry.	40. 20.
1591	Gelling & Bechtolt..... Bechtolt Fraction, Fairbanks Creek opp. 6 above.	1,050.00
2022	Kellogg, Chas. W..... Mortgage $\frac{1}{4}$ interest No. 1 above discovery L. L. Engineer creek.	625.
2558	Kelley, James ..... Mortgage 1/16 Gold Bug Assn. 1/16 Horseshoe Assn. LL. Ester Creek; 1/12 of an 1/16 Burton Assn. L. L. Cripple Creek; 7/32 Van Wood Assn.	4,928.24
3000	Robe, L. S..... \$75. coming from City Fairbanks Trustees account survey.	500.
2945	Rippa, Adolph ..... Fairbanks Banking Co. as Trustees for creditors has one 6-4-6 Worthington pump;	900.
2834	Smith & Fisher..... Undivided $\frac{1}{2}$ in fraction opp. 2 below 1st tier L. L. Ester.	112.92
2877	Struthers, J. F..... Ring.	100.

2857	Tharp & Rusk.....	801.
	¼ interest Capital Assn. Chatanika River.	
1982	Tanana Trading Co.....	2,175.82
	One 8x10 Engine.	
2767	Williams, A. J.....	150.
	Diamond Ring.	

[Endorsed]: #1756. Plffs. Ex. "PP." Filed in the District Court, Territory of Alaska, 4th Div. Apr. 29, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

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### [Plaintiff's Exhibit "QQ"—Notes of Washington-Alaska Bank Past Due and not Paid.]

NOTES OF W. A. BANK WHICH WERE PAST DUE APRIL 12, 1910,  
AND NOT PAID.

Number.	Makers.	Held at	Unpaid.
1778	Williams, J. A.....	3,407.83	3,307.83
2464	Kellett & Monkman.....	906.30	906.30
2465	Peterson, Nels .....	1,560.	1,251.63
2466	" " Admr.....	2,000.	1,691.62
2506	Walker, F. B.....	1,855.	878.75
2550	Wiseman and Barelay.....	1,543.57	1,543.57
2552	Pamucinal, M. et al.....	1,526.43	1,526.43
2595	Erickson & Co.....	16.	16.
2628	Christian, John et al.....	1,598.75	1,598.75
2651	Lappi, Orne, et al.....	957.76	957.76
2716	Walker, F. B.....	1,000.	1,000.
2718	Kovaich, T. ....	685.	685.
2725	Christian, John et al.....	530.	530.
2731	Smith, Lord, et al.....	1,225.92	209.36
2754	Garvin, Simonson, et al.....	4,741.97	1,872.34
2755	" " " .....	4,890.	4,890.
2767	Williams, J. A. (ring).....	150.	150.
2779	Christian, John et al.....	530.	530.
2805	" " " .....	520.	520.
3174	Williams, Mrs. J. A.....	104.	104.
2882	Perranlt, G. A.....	2,080.	2,080.
2885	Erickson & Co.....	408.	408.
2887	Kovaich, T. ....	113.	113.
2911	Christian, John et al.....	200.	200.
2959	Verneti, et al. ....	100.	100.
2970	Garvin, Andy .....	111.97	111.97
3001	Kovaich, T. ....	31.50	31.50
3026	Wooldridge, T. E. et al.....	569.	19.
3044	Jestland, T. ....	600.	600.
3070	Johnston, Chas. et al.....	530.	530.
3084	Struthers, J. F.....	208.	208.
3192	Auten & Frick.....	500.	500.
2501	Johnson, Erik et al.....	610.	310.

Number.	Makers.	Held at	Unpaid.
2834	Smith & Fisher .....	890.	112.92
1982	Tanana Trading Co. ....	2,825.82	2,175.82
2129	Maddocks, M. & K. ....	648.99	648.99
2149	Clark, W. Sam. ....	5,668.30	4,939.60
2443	Bostrom & Erickson. ....	2,925.92	2,669.37
2449	Sala, Joe .....	2,850.	2,850.
2470	Christian, J. et al. ....	3,000.	2,785.
2490	McNeer, A. H. ....	728.	726.56
2558	Kelley, James .....	6,126.25	4,928.24
2579	Ruppa, Adolph .....	4,837.	4,837.
2954	Himes, W. et al. ....	126.90	126.90
3162	Miller, H. I. ....	1,546.	1,546.
3209	Siebe & Myers. ....	563.	563.
3210	" .....	543.33	543.33
3211	" .....	1,337.50	1,337.50
3212	" .....	2,214.66	2,214.66
3215	Myers, R. R. ....	160.	156.68
1957	Anderson, O. M., et al. ....	300.	125.
2663	Wilkinson, et al. ....	4,000.	4,000.
3063	Clark & Morley. ....	7,606.60	7,606.60
2380	Burke, L. A. ....	285.	285.
3221	Anderson, L. B. ....	71.50	71.50

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2163	Heilig, Tozier, et al. ....	3,866.	669.
3080	Russell, J. H. and Heilig. ....	357.	7.
3388	Gaidos, Sandstrom, et al. ....	1,530.	1,530.
3391	" Geo. and Carl White. ....	205.	205.
3423	Hedman, John .....	100.	99.13
3284	Morency, Al. ....	4,668.	4,080.
3472	Stone & Brandt .....	4,500.	999.70
3319	Chamberlain & Curry. ....	1,571.76	1,001.30
3413	Van Winkle, R. J. ....	200.	200.

[Endorsed]: #1756. Plffs. Ex. "QQ." Filed in the District Court, Territory of Alaska, 4th Div. Apr. 30, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[389]

(Testimony of Sidney Stewart.)

Q. Mr. Stewart, will you look at your records and give us the total amount, as shown by the books of the Fairbanks Banking Company, then known as the Washington-Alaska Bank of Nevada, of its assets on October 25, 1910.

Mr. CLARK.—To which we object as irrelevant, incompetent and immaterial, coming in too late, after the motion has been made for a nonsuit on that very matter; and we object to the plaintiff being permitted to open up their case to introduce further testimony.

(Objection overruled; and defendants except.)

Mr. RIDER.—Q. What was the total amount of the assets as shown by the books of the bank?

A. Total assets \$1,471,230.18.

Q. And the total amount of liabilities?

A. \$1,475,470.51.

Q. Capital stock outstanding?      A. \$159,600.

Q. What was the total amount of paper then past due carried by the bank as an asset on that date, and which has never been paid? [390]

A. \$224,762.49.

Q. Is there an asset of stocks included in the statement on that day?      A. Yes, sir.

Q. What is it, and what is it composed of?

A. \$417,949.

Q. What is it composed of?

A. \$341,949 capital stock of the Gold Bar Lumber Company, \$75,000 Washington-Alaska Bank of Washington; \$1000 Chena Melting Milling & Refining Company; making a total of \$417,949 in stocks.

(Testimony of Sidney Stewart.)

Mr. RIDER.—That is all.

Cross-examination.

Mr. CLARK.—Q. The assets that you have given do not include any accrued interest on any loans that were outstanding at that time carried and unpaid?

A. The accrued interest is not shown as an asset on their statement. These figures I have given you are the total of assets as shown by their daily statement.

Q. There were a large number of interest bearing loans outstanding at that time? A. Yes, sir.

Q. Have you among your papers a statement furnished to the directors at the meeting of October 13, 1910? A. I don't know.

Mr. CLARK.—That is all.

Mr. RIDER.—We rest. [391]

By Mr. McGINN.—We desire to read in evidence the deposition of J. O. McKenzie, taken pursuant to a stipulation entered into between the parties to this case (Reads deposition.) [392]

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[Title of Court and Cause.]

[Deposition of E. L. Webster et al.]

Depositions of E. L. Webster, W. H. Parsons, T. F. Ryan, W. M. Peterson, J. S. Mackenzie and Frank E. Barbour, taken in the above-entitled causes on behalf of the defendants pursuant to oral stipulation now entered into between the attorneys for the respective parties and pursuant to the same stipulation and notice for the taking of the depositions of



the witnesses Carl M. Johanson and W. G. Cassels, heretofore taken on behalf of plaintiff in the above-entitled suits, before N. W. Bolster, a Notary Public, at Seattle, Washington, on the 2d day of March, A. D. 1914, John L. McGinn appearing as attorney for the defendants R. C. Wood, James W. Hill and John L. McGinn, and also pursuant to stipulation as attorney in behalf of all the remaining defendants who are represented by McGowen & Clark as their attorneys of record, and O. L. Rider appearing as attorney for said plaintiff in the taking of said depositions of Carl M. Johanson and W. G. Cassels. [393]

NOW, THEREFORE, be it remembered that pursuant to said notice and stipulation, on this 14th day of March, A. D. 1914, at my office, room 707 Lowman Building, Seattle, King County, Washington, before me, N. W. Bolster, a Notary Public in and for said state, duly commissioned to administer oaths, etc., etc., personally appeared E. L. Webster, W. H. Parsons, T. F. Ryan, W. M. Peterson, J. S. Mackenzie and Frank E. Barbour, witnesses produced on behalf of the defendants named in the above-entitled action now pending in said court, and who being by me first duly cautioned and sworn, were then and there examined and interrogated by John L. McGinn, Esq., of counsel for said defendants, and by O. L. Rider, Esq., of counsel for said plaintiff, and testified as follows: [394]

[**Deposition of J. S. Mackenzie, for Defendant.**]

J. S. MACKENZIE, produced as a witness in behalf of defendants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. McGINN.) State your full name.

A. John S. Mackenzie.

Q. Where do you reside, Mr. Mackenzie?

A. Gold Bar, Washington.

Q. How long have you resided at Gold Bar, Washington?

A. It will be twelve years on the 18th of next June.

Q. And what have you been engaged in doing there during that period?

A. Well, I have occupied the position of foreman, superintendent and then manager.

Q. Of what?

A. Of the Gold Bar Lumber Company sawmill.

Q. A corporation organized under the laws of the State of Washington? A. Yes, sir.

Q. When did you first go to work for the Gold Bar Lumber Company? A. June 18, 1902.

Q. In what capacity?

A. Then I was car tallyman.

Q. How long did you continue in that capacity?

A. About one year.

Q. And then what position?

A. Then I went into the office as assistant bookkeeper until May, 1906.

Q. And then what?

A. In May, 1906, I was—I occupied the position of superintendent [395] until June, 1911; from

(Deposition of J. S. Mackenzie.)

June, 1911, to the present time I have been manager.

Q. So, then, about the month of March, 1908, you were the superintendent of the Gold Bar Lumber Company? A. Yes.

Q. And as such were you familiar with the property and assets of the Gold Bar Lumber Company and its liabilities? A. Yes, sir, quite familiar.

Q. Do you remember when the stock of the corporation was acquired by E. T. Barnette, James W. Hill, R. C. Wood and Carl M. Johanson?

A. May 1, 1906.

Q. Do you know how long Mr. Wood, Mr. Hill and Captain Barnette continued to hold their stock?

A. No, I could not say.

Q. I will ask you to state whether or not during the year 1907 the Gold Bar Lumber Company purchased any additional timber? A. Yes.

Q. From whom?

A. The Weyerhauser Timber Company.

Q. How many feet?

A. Approximately twenty million.

Q. Do you know how much they paid for that timber per thousand?

A. They paid a lump sum of \$45,000, \$2.25 a thousand.

Q. Was that a fair and reasonable price for timber at that time?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.) [396] A. Yes.

Q. I will ask you to state whether or not you are acquainted with the value of timber in Gold Bar and

(Deposition of J. S. Mackenzie.)

its vicinity during the years 1907-8 and up to the present time?

A. Am I acquainted with the value?

Q. Yes.      A. Yes, sir, fairly so.

Q. Do you regard \$2.25 a thousand a fair and reasonable price?      A. Yes.

Q. I will ask you to state whether or not that was the price at which timber was being held at that time in that vicinity?

A. Well, now, I do not know that I could say really that it was the case, because there is very little timber on the market up there; most of the timber is held by the big investors and it really is not on the market; that is you can go and buy it if you want to, but then it is not advertised and it is hard to find out just what the values are.

Q. In March, 1908, about how many million feet of timber did the Gold Bar Lumber Company own?

A. I could not say without referring to the reports.

Q. Have you the reports with you?      A. Yes.

Q. I will ask you to refer to the report and to state what it was.      A. On what date?

Q. March, 1908.

A. (Referring to report.) I would say approximately one hundred [397] forty million feet.

Q. What in your opinion was the value of that timber per thousand feet?

A. Pardon me just a minute; I have no report showing it any time in March. Our reports are all based on October 1, 1907, because that was the end of our fiscal year. Now, I will have to take that back

(Deposition of J. S. Mackenzie.)

about the one hundred and forty million feet. It was more than that; we had one hundred fifty million feet on October 1, 1908. Now I have no way of arriving at how much we would have on March 1, 1908.

Mr. RIDER.—Are you speaking of 1907 or 1908.

The WITNESS.—On October 1, 1908, we had one hundred fifty million.

Q. (Mr. McGINN.) And what would you have in October, 1907?

A. We had one hundred forty million feet October 1, 1907, and we had one hundred fifty million on October 1, 1908, for the reason that we bought the twenty million feet from Weyerhauser in the meantime.

Q. What in your opinion was the value of that timber per thousand feet in the month of March, 1908?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. You mean what it could be purchased for?

Q. Yes, sir, what it was worth.

A. What would be the fair selling price for what we had?

Q. Yes.

Mr. RIDER.—I object to the question for the reason that in the light of what the witness has answered it is not the proper basis for obtaining the value of the timber. [398] A. From \$2.00 to \$2.25.

Q. (Mr. McGINN.) What do you base that opinion on?

A. On the fact that we paid \$2.25 to Weyerhauser

(Deposition of J. S. Mackenzie.)

for what we bought.

Q. Now, besides the timber that was upon the property what did the assets of the Gold Bar Lumber Company consist of during the month of March, 1908?

A. Mill buildings, mill machinery, logging equipment, water system, real estate, both logged off land and townsite, furniture and fixtures, cash on hand and a certain amount of supplies for the mill and camp.

Q. And stock?

A. And stock on hand, lumber stock on hand, and also the general merchandise store.

Q. Have you a statement there showing the resources and liabilities of the Gold Bar Lumber Company for the month of March, 1908?      A. No, sir.

Q. Have you any statement showing the resources and liabilities of the Gold Bar Lumber Company during the year 1908?

A. I have for September 30th.

Q. Have you that statement with you?

A. Yes.

Q. Will you produce it?

A. (Producing document.) It is dated October 1.

Q. Now, in this statement of the Gold Bar Lumber Company dated October 1, 1908, under the total of resources it shows camp equipment amounting to the sum of \$31,915.23; what did that camp equipment consist of? [399]

Mr. RIDER.—We object to any reference to the items contained in the statements or the values as



(Deposition of J. S. Mackenzie.)

shown by those items, for the reason that they are incompetent and for the further reason that they are irrelevant and immaterial.

A. Two locomotives, ten logging cars, three donkey engines, about five miles of railroad, steel, and all tools necessary to logging.

Q. (Mr. McGINN.) And state whether or not those were necessary.

A. All necessary for the purpose of logging.

Q. I will ask you to state whether the sum of \$31,915.23 was the fair and reasonable value of that camp equipment.

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. Yes.

Mr. RIDER.—That is based on that statement, is it, Mr. McGinn, the question which you are asking the witness?

Mr. McGINN.—Well, I am asking him whether, in his opinion, he considers that a fair and reasonable value?

Mr. RIDER.—At what time?

Mr. McGINN.—In October, 1908.

Mr. RIDER.—That is objected to as irrelevant, immaterial and incompetent.

Q. (Mr. McGINN.) And you were acquainted with the values of that property, of the camp equipment at that time, were you? A. Yes.

Q. Was that camp equipment of the same value, or approximately the same value in the month of March, 1908?

(Deposition of J. S. Mackenzie.)

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.) [400]

A. I should say exactly the same, possibly a little more on account of wear and tear during that time.

Q. The next item is excess freight fund consisting of \$625.16, what did that consist of?

Mr. RIDER.—In order that there may not be a constant interruption, may it be understood that an objection is made to all questions based upon the report which you are now examining him on, for the reason that they are irrelevant, immaterial and incompetent?

Mr. McGINN.—Yes, and further that you can raise any objections on the trial which you see fit.

A. I do not know, Mr. McGinn, what that item is.

Q. (Mr. McGINN.) Can you state whether or not that is a cash item?

A. Excess freight—I should judge that it was the difference between the actual freight and the basis on which the lumber was sold; in other words, what we call underweights.

Q. The next item, horses and wagons amounting to the sum of \$501.06; state whether or not the horses and wagons were worth that amount. A. Yes.

Q. What did they consist of?

A. Three horses and two wagons, two dump-carts and all necessary equipment.

Q. And that was necessary in the operation?

A. That was necessary in the operation up there.

Q. The next item, unexpired insurance on mill \$2,026.68, what did that consist of?

(Deposition of J. S. Mackenzie.)

A. That represents insurance which had been paid up but which [401] was unexpired and therefore it was an asset.

Q. And unexpired insurance on real estate \$128.78—the same can be said of that?

A. The same thing.

Q. The next item?

A. Lands, amounting to the sum of \$3,229.57, what do you mean by lands?

A. That represents both logged off land and also timber land, without considering the value of the timber. It was carried, if I am not mistaken, at one dollar an acre on the books.

Q. And would you consider that the reasonable value? A. I consider that very, very reasonable.

Q. As a matter of fact, it was worth more.

A. Yes.

Q. How much more would you say?

A. I should say not less than three dollars at least.

Q. And the next item is lumber and logs, \$8,232.74.

A. That represents stock and logs on hand in the yard and in the pond.

Q. Was it worth that amount?

A. I would hardly be prepared to say, because I do not remember how much stock we had at that time.

Q. In carrying lumber that way, what valuation was placed upon it?

A. We figured the selling price at the time the stock is taken, less what it will cost to load it and machine it, if it needs machining.

(Deposition of J. S. Mackenzie.)

Q. In your opinion that would be a fair and reasonable price for it? [402]

A. Yes, sir, it would.

Q. The next item is light equipment \$2,879.32; what did that consist of?

A. They represented three dynamos, one dynamo engine and all wiring system, both in and around the mill and the town.

Q. Can you state whether or not that is the fair and reasonable price to be placed upon it?

A. Yes, sir, I should judge it was.

Q. It was worth that amount? A. Yes.

Q. The next item is millsite \$5,000—what do you mean by millsite?

A. The millsite represents 26.41 acres of land on which the plant was built and our lumber-yards, which I consider very reasonable.

Q. Then the mill buildings, amounting to the sum of \$24,213.87, state whether or not that was a fair and reasonable value for that.

A. Yes, sir, I should say it was very reasonable at that time.

Q. Mill equipment amounting to the sum of \$73,-594.81.

A. That represents all sawmill machinery. The sawmill had a capacity at that time of about 90,000 per day; it also represents all the planing mill machinery and the shingle mill machinery, all necessary in the manufacture of lumber, and I should judge it was a conservative estimate.

Q. The Northern Bank & Trust Company \$6,-519.20.

(Deposition of J. S. Mackenzie.)

A. That, I presume, represents the cash in the bank at the time of this statement, I don't know.

[403]

Q. You were doing business with the Northern Bank & Trust Company at that time?

A. We were doing business with the Northern Bank & Trust Company at that time.

Q. The next item, office furniture \$548.58.

A. That represents safes, desks, typewriters and other furniture incident to the office. I should judge it was a very conservative estimate.

Q. Timber \$300,000.

A. That represents one hundred and fifty million feet of timber carried on our books at \$2.00 a thousand.

Q. In your opinion I believe you testified that timber was worth between two and two and a quarter a thousand.

A. Yes, sir. I based my opinion on the fact that the Weyerhaeuser people sold us the timber we purchased at \$2.25, and the reason they sold it was because it was logged off all around the tract that we bought and it was a pretty good buy; for that reason I think that they sold it at the price of \$2.25, and it was as reasonable as it could be bought at that time.

Q. Would you say, then, that the sum of \$300,000 for the timber was a conservative estimate?

A. Yes.

Q. Real estate amounting to \$24,500; what did that consist of?

(Deposition of J. S. Mackenzie.)

A. That is represented in town lots, and about eighteen houses that the company owned at that time.

Q. Was that a reasonable, conservative valuation placed upon that item of real estate?     A. Yes.  
[404]

Q. The Valley Supply Company stock, amounting to the sum of \$9,593.39.

A. That represents stock on hand in the general merchandise stock, together with all fixtures necessary for the conduct of the store business, and was represented by actual stock taking at the time that the statement was gotten out.

Q. And they had an inventory of the stock?

A. Yes.

Q. Water system \$10,313.82.

A. That represents the water system that was put in in 1907-8; a gravity system, piped about three miles from the hills, and was all new and in working order at the time this statement was gotten out, and represents the exact cost of installation.

Q. In your opinion, was it worth that amount?

A. All of that.

Q. The next item is accounts receivable \$7,161.47.

A. That I could not say anything about. It represents the amount that was owing us on our books at that time.

Q. You cannot say just at the present time how much of that you collected?

A. No. We were in the habit of charging off what we considered a safe amount for all accounts for the year.



(Deposition of J. S. Mackenzie.)

Q. And at this time you considered that was a fair and reasonable estimate of the amount due you?

A. That was done before the statement was gotten out or the books were closed, so that I should say that that represented the correct amount that was owing us.

Q. This shows total resources \$510,983.68; in your opinion [405] that would be a conservative estimate? A. Yes—

Q. —of the resources of the Gold Bar Lumber Company? A. Yes.

Q. Liabilities, bills payable, \$71,000; that was what you owed?

A. That was what we owed on our—I guess that was indebtedness to the bank. Was that the total liabilities, \$71,000, or just the bills payable?

Q. The bills payable, and there is unpaid taxes \$1,306.24, wages due \$149.99, accounts payable \$362.74; I will ask you to state whether or not that included all of the liabilities of the Gold Bar Lumber Company? A. Yes, sir, all the liabilities.

Q. It shows, then, total liabilities \$72,818.97.

Mr. RIDER.—On what date?

Mr. McGINN.—October 1, 1908.

Q. The statement then shows net resources \$438,164.71; would you consider that, then, a fair and reasonable statement of the net resources of the Gold Bar Lumber Company October 1, 1908?

A. Yes, sir, I would.

Q. What would you say as to the total resources of the Gold Bar Lumber Company, as compared with

(Deposition of J. S. Mackenzie.)

this statement, was in March, 1908?

A. I should say they were about the same, for the reason that the mill did not operate during 1908 at all, therefore there would be no timber cut.

Q. You say that the mill did not run during the year 1908?

A. The mill did not run during the year 1908 from November, [406] 1907, until December, 1908.

Q. Now, in the year 1909 did you also make an annual statement showing the resources and liabilities of the Gold Bar Lumber Company?

A. Yes, sir, on September 30th.

Q. Have you got that statement?

A. Yes, sir (Showing document).

Q. Now, this statement showing the net resources on October 1, 1909, sets forth the assets and liabilities of the Gold Bar Lumber Company, and without taking up the time of going into each one of these items separately as I did with you in the former statement of October 1, 1908, I will ask you whether the amounts placed opposite these different items of assets was a fair, and reasonable and conservative estimate of the value of those assets at that time.

Mr. RIDER.—To which the plaintiff objects for the reason that it is irrelevant, immaterial, incompetent, and objects to any examination based upon this statement for these reasons.

A. (Witness examines and compares the statements.) Yes, I should say that was a reasonable valuation.

Q. (Mr. McGINN.) It places a valuation on bills

(Deposition of J. S. Mackenzie.)

receivable in the sum of \$350.

A. That represents an account that was owing us on which we had a note; we had taken a note to secure us.

Q. Do you remember whether that was paid or not?

A. No, it was not paid. At that time we considered it good, but it has been charged off since.

Q. It fixes the camp equipment at \$35,503.18; do you [407] consider that a fair and reasonable and conservative value of the camp equipment at that time?

A. Well, I don't understand why it should have been any higher then, Mr. McGinn, in 1909, than it was in 1908, unless there was something purchased in the meantime—if there was I do not remember it.

Q. You do not remember it?

A. No; there may have been rails purchased, which would raise the valuation.

Q. But what you carried this for on the books of the company was a conservative estimate?

A. What we considered a conservative estimate.

Q. —of the value of the property. A. Yes.

Q. It shows cash \$620.71, cook-house supplies \$149.95; was that the amount which you really had on hand at that time? A. Yes.

Q. And it was the value?

A. Yes, sir, it was represented by actual inventory.

Q. Excess freight fund, amounting to \$592.86, that is correct, is it? A. Yes.

Q. And horses and wagons \$283.06; *would* would

(Deposition of J. S. Mackenzie.)

you say about that being fair and reasonable?

A. I presume that is correct. I think that we had reduced it to two horses instead of three.

Q. It was worth that amount?

A. Yes, it was worth that amount.

Q. Then comes the unexpired insurance on the mill, \$3,551.54, [408] unexpired insurance on real estate \$154.02. What you have stated in regard to the statement of October, 1908, will also apply to this statement of 1909. A. Yes, sir.

Q. And you carried land at this time at \$3,290.57; do you consider that a fair and reasonable and conservative value?

A. Yes, that is still based on a dollar an acre.

Q. And in your opinion, how much was it really worth at that time?

A. Two dollars and a half to three dollars.

Q. The next item is lumber and logs \$52,600.33; what did that consist of?

A. That represents the stock in the yard and the logs in the pond, and I should judge it would be right, because we carried a very heavy stock at that time. The lumber market was suffering quite a depreciation at that time and we were not moving much stock.

Q. And then the mill buildings \$5,000.

A. That is the millsite.

Q. The millsite at \$5,000; that is the same as in 1908?

A. Yes, sir. We always carried it at that, although we consider it is more valuable now than it

(Deposition of J. S. Mackenzie.)

was at that time, still we always carried it at \$5,000.

Q. You considered it worth \$5,000 in 1908?

A. Yes.

Q. Mill buildings amounting to the sum of \$27,-507.94.

A. That I consider a conservative estimate for the buildings.

Q. Mill equipment \$89,251.36.

A. That I should judge to be all right, because we had [409] increased the capacity of the mill from ninety to one hundred thousand during 1909.

Q. And the next is the mill supplies, amounting to the sum of \$965.57.

A. That I know to be correct because it represents the tools, the movable tools which are in use around the mill at all times, and they are always around about the same.

Q. And that was a fair and reasonable value?

A. Yes, sir; we are carrying at the present time about \$1,300.

Q. National Bank of Commerce \$1,249.43.

A. That, of course, I could not say. That represents our cash balance in the bank, evidently.

Q. The next item is furniture and fixtures \$718.58; would you say that was a fair, reasonable and conservative value of that asset?

A. Yes, sir. We had purchased additional fixtures and furniture for the office in the meantime.

Q. The next item is real estate \$23,550; what would you say about that?

A. That I should judge to be all right.

(Deposition of J. S. Mackenzie.)

Q. The previous year you carried your real estate at \$24,500.

A. We had probably sold some lots in the meantime.

Q. The next item is the Valley Supply Company \$12,051.99, how about that?

A. That is right. That represented an increase in the stock. It was lower in 1908 on account of the plant not operating. [410]

Q. The next is the water system \$10,341.59.

A. That is correct. We never depreciated the water system for the reason that we figured that the extensions we were putting in each year would offset any depreciation which might take place.

Q. The next item is timber \$271,032.73.

A. I presume that is correct. It represents the actual stumpage carried at \$2.00 on our books. Of course, I could not say whether we actually had that much or not; it is presumed that it is correct.

Q. You probably deducted from your timber what had been cut?

A. We deducted every year what we took off, and carried forward the balance on October 1st of each year at \$2.00.

Q. The next item is accounts receivable amounting to the sum of \$20,878.87.

A. Of course, I could not say as to that.

Q. You considered that correct at that time?

A. Those were considered good accounts.

Q. You had wiped out what you considered bad accounts prior to this time?



(Deposition of J. S. Mackenzie.)

A. We had wiped out the bad accounts prior to that time.

Q. This statement shows total resources \$560,-852.02, and the liabilities, bills payable \$100,000; liability insurance \$839.40; accrued interest \$805.17; unpaid taxes, \$1,000.08; accounts payable \$11,-082.49, and wages due \$8,370.27, making a total of liabilities of \$122,097.41; I will ask you to state whether or not that included all the liabilities of the Gold Bar Lumber Company.

A. That included all the liabilities.

Q. This shows, then, net resources October 1, 1909, \$438,754.61; [411] I will ask you to state whether or not, in your opinion, that was a fair, reasonable and conservative estimate of the net resources of the Gold Bar Lumber Company?

A. Yes, sir, in my opinion that is a fair valuation.

Q. When did you make out your next statement?

A. We made out the next statement on September 30, 1910.

Q. Have you got a copy of that statement with you? A. Yes, sir. (Showing document.)

Q. Here is the statement of the Gold Bar Lumber Company of October 1, 1910, which shows resources and liabilities, and places a separate valuation on the separate items enumerated here. I am not going to take up the time in going through each one of these seriatim, but I will ask you to state whether or not the amounts set opposite these items of resources in your opinion are fair and reasonable, conservative estimates of the value of the Gold Bar Lumber Com-

(Deposition of J. S. Mackenzie.)

pany at that time.

Mr. RIDER.—To which plaintiff objects for the reason that it is incompetent and immaterial, and objects to any examination based upon such type-written statement, for the reason that the same is incompetent, irrelevant and immaterial.

A. The only item I would be in doubt about would be the lumber and logs which are shown here at \$59,-290, because I do not remember how much stock we had on hand.

Q. (Mr. McGINN.) Outside of that, you think the others are all right.

A. Yes, sir; I know that we had a heavy stock at that time; during 1908, 1909 and 1910 we had a heavy stock of lumber.

Q. You did not carry on your books any more than what you [412] actually had?

A. No, sir, that item is based on actual inventory.

Q. That item is based on actual inventory?

A. On actual inventory at the time the statement was made out there, and it was done so every year and it represents the market price of the lumber less what it would cost to put it on the cars.

Q. That shows the total resources of the Gold Bar Lumber Company October 1, 1910, amounting to \$566,330.97; now in your opinion that would be the fair and reasonable, conservative estimate of the total resources of the Gold Bar Lumber Company?

A. Yes.

Q. The statement also shows liabilities amounting to the sum of \$116,859.56; does that show the total

(Deposition of J. S. Mackenzie.)

liabilities of the Gold Bar Lumber Company?

A. Yes.

Q. The statement then shows net resources as of that date \$449,471.41; would you say that that was the fair and reasonable, conservative estimate of the value of the net resources of the Gold Bar Lumber Company at that time?

A. Yes, I should judge it was.

Q. Now, in these statements you carry your timber, we will say in this statement of October 1, 1908, at \$300,000. A. Yes.

Q. And that represented 150,000,000?

A. 150,000,000.

Q. 150,000,000 at— A. At \$2.00 a thousand.

Q. How did you estimate the number of feet of timber which [413] you had on the property?

A. We had it cruised.

Q. By whom? A. A. L. Graham.

Q. When was that cruise made?

A. Well, about April, 1906, it was cruised just before the plant changed hands on May 1st.

Q. I will ask you to state whether or not you found that the timber ran ahead of the cruise?

A. Yes, sir.

Q. And what percentage? A. 12½.

Q. So then, as a matter of fact, there should be added to these items about 12½ per cent greater than what your inventory showed.

A. Yes, sir, on that one particular item of timber.

Q. And that applies to all of these statements?

A. Yes.

(Deposition of J. S. Mackenzie.)

Q. During all of these years, that is 1908-9-10, in your opinion the Gold Bar Lumber Company was worth what these statements shows it was worth?

A. Yes.

Mr. McGINN.—I ask that a copy of these statements be attached to the deposition of the witness and marked “Defendants’ Exhibits No. 9, No. 10 and No. 11.”

Mr. RIDER.—To which the plaintiff objects for the reason that the same is incompetent, irrelevant and immaterial.

(Documents above referred to are marked respectively “Defendants’ Exhibits Nos. 9, 10 and 11,” attached hereto and returned herewith.) [414]

Q. (Mr. McGINN.) These statements were taken from what?

A. They were taken from our general ledger.

Q. Where are those books now?

A. At Gold Bar.

Q. And statements of this kind were furnished to the Fairbanks Banking Company? A. Yes.

Q. And also afterwards to the Washington-Alaska Bank? A. Yes, sir.

Q. And statements of that kind have been furnished to the receiver since his appointment, have they not?

A. Yes. Well, I would like to say this, that during the year 1913 statements were furnished to Mr. Johanson with copies for Mr. Noyes; and when I was in Valdez Mr. Noyes told me that Mr. Johanson would have complete charge.

(Deposition of J. S. Mackenzie.)

Q. When was that?

A. That was in December, 1912. Prior to December, 1912, I had mailed Mr. Noyes copies of these statements myself direct to Fairbanks.

Q. What did Mr. Noyes tell you at that time?

A. Mr. Noyes told me then in December, just before I left Valdez, that Mr. Johanson would have complete charge out here and that I would be responsible to him; consequently since I came back from Valdez I have mailed all copies of the statements to Mr. Johanson here in Seattle with copies for Mr. Noyes.

Q. Did Mr. Johanson then have the management of the property?

A. In an advisory way, yes. [415]

Q. What do you mean by "in an advisory way"?

A. Well, he never stayed there, but he just came out there at intervals.

Q. How often would he come there?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. Three or four times a month, from two to four times a month.

Q. And how long would he stay there?

A. Sometimes a day and sometimes he would stay there a week.

Q. Do you know what compensation he received as manager?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. Yes, sir, he received from one hundred fifty to

(Deposition of J. S. Mackenzie.)

three hundred dollars a month.

Q. One hundred fifty dollars a month during certain periods and three hundred dollars a month during certain other periods.

A. Yes, sir, one hundred fifty dollars a month during some periods and three hundred dollars and two hundred fifty dollars during certain periods.

Q. When did he receive the three hundred dollars a month?

Mr. RIDER.—All of this examination is objected to as irrelevant, immaterial and incompetent respecting Mr. Johanson's connection with the Gold Bar Lumber Company or his conduct of the business or the salary that he received.

A. (By the Witness.) For about five months 1913 he received three hundred dollars a month.

Q. (Mr. McGINN.) How long did he continue to occupy that [416] position?

A. Up to the present time, I think.

Q. He is still occupying it, is he?

A. Well, now, I am not sure of his position since the Dexter-Horton National Bank has control of the stock; it has not been explained to me. He is not on the salary list any more.

Q. He is not on the salary list any more?

A. No, sir, not since January, 1914.

Q. Has he been over there since that time?

A. Yes, sir, a few times.

Q. And you are in the exclusive charge of the property now? A. Yes, sir.

Q. Has the mill been operated during the year



(Deposition of J. S. Mackenzie.)

1913? A. Yes, it was operated ten months.

Q. Are you acquainted with the handwriting of Carl M. Johanson? A. Yes, sir.

Q. I show you now what has been marked Defendants' Exhibit No. 6 for the purpose of identification, and which purports to be a letter from Carl M. Johanson to W. H. Parsons, dated October 13, 1913, and I will ask you to state whether or not that is his signature (showing document to witness)?

Mr. RIDER.—I object to that is irrelevant, immaterial and incompetent.

A. Yes, sir, it is.

Mr. RIDER.—And I make the further objection that Mr. Johanson has appeared here as a witness and the letter was not presented to him for identification or explanation. [417]

Q. (Mr. McGINN.) Attached to this letter is a statement showing the resources and liabilities of the Gold Bar Lumber Company September 30, 1913, I will ask you if that is the time when you made your annual statement. A. Yes.

Q. This statement shows that the net resources on September 30, 1913, amount to the sum of \$344,-941.92, I will ask you to state whether or not, in your opinion, the net resources of the Gold Bar Lumber Company on that date was that amount?

Mr. RIDER.—That is objected to as irrelevant, immaterial and incompetent and the further objection to any examination based upon such printed statement for the reason that it is incompetent, irrelevant and immaterial.

(Deposition of J. S. Mackenzie.)

A. Yes, I should say that was a conservative estimate.

Q. (Mr. McGINN.) On the 30th day of September, the Gold Bar Lumber Company charged off bad accounts and depreciated some of the items in order to make them reasonably near their true value.

A. Yes.

Q. As nearly as possible their exact value, isn't that true? A. Yes, sir.

Q. Do you know what that depreciation amounted to?

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent—what year, Mr. McGinn?

Mr. McGINN.—September 13, 1913.

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent.

A. I do not remember the exact amount; it was somewhere between thirty-five and forty thousand dollars. [418]

Q. (Mr. McGINN.) This letter of Mr. Johanson's, he says the depreciation was something like \$40,000.

A. Yes, sir, I think it was about \$38,000.

Q. Do you know the amount of timber that you had on hand at that time standing?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent. )

A. About 83,000,000 feet.

Q. What, in your opinion, was the value of that timber at that time per thousand feet?

(Counsel for plaintiff objects as irrelevant, imma-

(Deposition of J. S. Mackenzie.)

terial and incompetent.)

A. What we were carrying it at, or what I would consider it worth?

Q. What you would consider it worth.

A. I should think it would be worth two and a half a thousand.

Q. What were you carrying it for?

A. Two and a quarter.

Q. Those reports were made out to the best of your ability and judgment, were they not?

A. Yes.

Q. And based upon actual values as nearly as you could determine them?

A. Yes, sir, in our judgment based on actual values.

Cross-examination.

Q. (Mr. RIDER.) Mr. Mackenzie, when does the fiscal year of the Gold Bar Lumber Company begin—October 1st? A. Yes. [419]

Q. And all your statements were based upon September 30th, or October 1st, because that is the beginning or the end of the fiscal year? A. Yes, sir.

Q. And at that time you balanced up the books of the company for the year. A. Yes, sir.

Q. And arrived at the book valuation of the company's property at that time? A. Yes, sir.

Q. You carry in those statements an item of surplus; is that the difference between your liabilities and your resources? A. Yes, sir.

Q. And it shows the net resources?

A. It shows the net resources.

(Deposition of J. S. Mackenzie.)

Q. The surplus account is the net resources?

A. Yes, sir.

Q. Have you with you a statement of the condition of the Gold Bar Lumber Company on October 1, 1907?      A. Yes, sir (showing).

Q. Have you a statement of the condition on May 1, 1906?

A. No, I have not.    October 1, 1906, is the nearest I have to that.    May 1, 1906, was the time that the new company took it over?

Q. Yes.      A. Yes.

Q. Have you an extra copy of the statement of October 1, 1907?

A. No, I have not an extra copy of any of those—all the extras were sent into the bank.

Q. A copy of the statement of October 1, 1907, was furnished [420] to the bank, was it?

A. Well, now, I could not just exactly say that, Mr. Armstrong was manager at the time. Still I know it to be a fact that he always mailed the bank copies.

Q. This copy which you have here shows your net resources on October 1, 1907, \$359,119.18.

A. Yes.

Q. That is correct, is it?      A. Yes.

Q. And that is a fair and reasonable valuation of the net resources at that time?

A. Well, I should say not, for the reason that the timber at that time was carried at one dollar and a half, whereas we considered it worth two dollars.

(Deposition of J. S. Mackenzie.)

Q. Well, that is what you carried it on the books at? A. Yes.

Q. Included in that \$359,119.18 is the \$12,000 capital stock, is it not; can you tell me from an examination of it (handing document to witness)?

A. It does not show it as a liability. I should judge it was not entered—it does not show it as a liability.

Q. I wish you would look at that.

A. (Examining document.) It is evident from an examination of the comparative statements that it must have been included.

Q. This statement of October 1, 1907, shows your timber lands as \$204,956.05. A. Yes, sir.

Q. And that is correct, is it?

A. That is what we carried it at in our books.  
[421]

Q. Now, if I caught your answer right in answer to a question of Mr. McGinn's, you stated that the second cruise which you had made of the timber showed that your valuation should have been increased  $12\frac{1}{2}$  per cent.

A. No, not based on any second cruise—based on the actual cut, as compared with the cruise—it overran.

Q. And these valuations based on that second cruise should be increased  $12\frac{1}{2}$  per cent.

A. Not based on the second cruise. We never had a second cruise. The timber was cruised in April, 1906, and taking one section of the land, taking the actual cruise on that section of land and comparing

(Deposition of J. S. Mackenzie.)

it with the actual cut which our mill made from that, it has overrun  $12\frac{1}{2}$  per cent.

Q. Then these valuations should be increased  $12\frac{1}{2}$  per cent, that is as to the value of the timber, as based on the difference between the cruise and the cut.     A. Yes.

Q. That, you think, would be a fair and reasonable increase to add to the \$204,956.05—that that should be increased  $12\frac{1}{2}$  per cent?     A. Yes.

Q. And then you would have a fair and reasonable valuation of the property—of the timber lands.

A. No; I contend that while we carried that stumpage at a dollar and a half, that it was carried too low.

Q. Well, you said the difference between your cut and your cruise was  $12\frac{1}{2}$  per cent.

A. Yes,  $12\frac{1}{2}$  per cent.

Q. And these valuations of \$204,956.05 was based on your [422] cruise, were they not?

A. Yes, sir.

Q. In order to bring that to its fair valuation it should be increased  $12\frac{1}{2}$  per cent, should it not?

A. Yes; of course that would depend entirely on what you were carrying it at.

Q. Well, you were carrying it at \$204,956.05, based on your cruise, as I understand it?

A. Yes, all right.

Q. Mr. Mackenzie, you were with this Gold Bar Lumber Company prior to the time that Mr. E. T. Barnette, Mr. Hill and Mr. Wood bought in there?

A. Yes, sir, four years before that.



(Deposition of J. S. Mackenzie.)

Q. Do you know how much they paid for their four-fifths interest in the property?

A. As I understand it they bought the entire property, didn't they?

Q. No, they just bought a four-fifths interest.

A. Outside of Mr. Johanson?

Q. Mr. Johanson retained his interest.

A. Mr. Johanson bought the property.

Q. Johanson bought it?      A. Yes, sir.

Q. Do you know how much they paid for the entire property?      A. \$297,000,000.

Q. That was for the entire property?

A. Yes, sir.

Q. How much of that was paid in cash, do you know?      A. I could not say.

Q. Do you remember about a note being given at that time [423] for about \$98,000?

A. I do remember that there was a note, but I could not say the amount of it.

Q. Do you remember who that note was given by and to whom?

A. I am inclined to think that it was given by Mr. Johanson to O. S. Lewis, the former owner.

Q. Was it not given to the Scandinavian-American Bank and the proceeds given to Mr. Lewis?

A. No, well, I could not say as to that; I know that the deeds were put in escrow in the Scandinavian-American Bank.

Q. Haven't you got your books with you to show those original entries?      A. No, sir.

Q. Would you be able to identify a copy of those

(Deposition of J. S. Mackenzie.)

original entries? A. I don't know that I would.

Mr. RIDER.—I think I have what purports to be a copy of them.

Q. Do you remember about a note that was given by the Gold Bar Lumber Company, or on which the Gold Bar Lumber Co. was liable, to the Scandinavian-American Bank in the sum of \$80,000?

A. No, I don't know anything about that.

Q. Now, was there a charge made for depreciation of those properties, more particularly its buildings and equipment in 1907, prior to making the statement of October 1, 1907?

A. That I could not say, Mr. Rider, I think it shows the losses and gains.

Q. It shows an item of depreciation, too. [424]

A. Yes, sir, the depreciation on October 1, 1907, yes, sir—it shows six items of depreciation.

Q. Totaling how much, in round numbers?

A. Approximately fourteen or fifteen thousand dollars.

Q. Has there been any charge for depreciation made since that time, prior to the one which you made last fall, as you have testified about, of the thirty-five or forty thousand dollars?

A. There was one made in—a depreciation charged off in 1912.

Q. And also in 1911?

A. Also 1911, but I could not say between the years 1907 and 1911, without reference to the books.

Q. How much do you estimate the percentage of depreciation to be annually on that property?

(Deposition of J. S. Mackenzie.)

A. We charge a thousand dollars a month on the mill—I should say about ten per cent.

Q. That depreciation would attach to what items of the property?

A. Mill buildings, mill equipment and camp equipment and office furniture and fixtures.

Q. Have you with you any data showing the amount of timber that was cut during the time that the Fairbanks Banking Company, or its successors the Washington-Alaska Bank, owned a portion of the stock of this company.

A. I do not know when the Fairbanks Banking Company acquired it.

Q. It acquired it in March, 1908—that would be for the years 1908-9-10-11.

A. Well, the only way would be to take the statement for October, 1907, and figure the timber at that time and then [425] take it for October, 1911—that would be about the only way I could get at it.

Q. And you have no items with you showing that?

A. No, sir.

Q. Do you carry on your books any data from which you could compute the number of feet cut during those years?

A. Yes, sir, we would take that from the input of our camp.

Mr. RIDER.—Would it be agreeable to have that attached to the deposition?

Mr. MCGINN.—I have no objection.

Mr. RIDER.—Will you make a statement then showing annually the amount of the cut for the years

(Deposition of J. S. Mackenzie.)

1908-9-10 and send it to the clerk to be attached to the deposition?

A. You want the timber removed during those years?

Q. The total number of feet cut.

A. All right, sir.

(Document referred to is marked Plaintiff's Exhibit "D" attached hereto and returned herewith.)

Q. Your mill was closed in the fall of 1907?

A. Yes.

Q. At what date?

A. About the middle of November.

Q. And remained closed until December, 1908?

A. Yes, sir.

Q. How much does it cost to start your mill after it has been closed for a year?

A. Why, I should say about \$8,000.

Q. By reason of the mill being closed, the company sustained losses through the moving away of its employees who would have purchased supplies of the Valley Supply Company, [426] didn't it?

A. Yes.

Q. They moved away when the mill closed?

A. Yes, sir.

Q. They were also the principal users of the water that was supplied by the water plant too, were they not? A. Yes.

Q. Has the company declared any dividends since March, 1908? A. No, sir.

Q. The profits that the company have made have all been turned back into the plant by way of repairs

(Deposition of J. S. Mackenzie.)

and increase of equipment?     A. Yes, sir.

Q. All of its profits have gone back?

A. Yes, sir.

Q. And as the timber is cut, the most valuable asset of the company is being consumed, is it not?

A. Yes. It does not seem to me that you completed what you started in regard to the loss sustained by closing in 1908.

Q. All right, state it then.

A. I want to say that the reason that the plant shut down in 1907 was because the railroads attempted to raise the rate ten cents a hundred pounds on all transcontinental freight and the Lumberman's Association figured that it would be impossible for us to pay it. That was the reason why the plant shut down, and then after we had shut down there was the panic of 1907, so that it would have been impossible to have operated, except at a great loss, during that year. [427]

Q. That shut-down was had with the approval of Mr. Barnette, Mr. Hill and Mr. Woods, wasn't it?

A. I could not say as to that. Mr. Armstrong was the manager.

Q. Mr. Armstrong was in charge at that time?

A. Yes, sir.

Q. You do not know anything about the letters and telegraphic correspondence between them at that time?     A. No.

Q. You do not know anything about the financial straits that the Gold Bar Lumber Company was in at that time by reason of certain pressing claims due

(Deposition of J. S. Mackenzie.)

to the Scandinavian-American Bank?

A. No, sir, I could not say anything about that.

Q. You do not know whether the Scandinavian-American Bank was pressing them for payment at that time or not, on their indebtedness?

A. I never heard of it.

Q. Do you know whether or not the stock of the Gold Bar Lumber Company held by Hill, Wood and Barnette was involved in litigation at that time?

A. I did hear—

Mr. McGINN.—That is admitted.

Mr. RIDER.—To what extent do you make your admission, Mr. McGinn?

Mr. McGINN.—In regard to the Causten matter, that is all recited in the agreement.

Mr. RIDER.—That did not occur until March, that agreement, and I do not know myself when the stuff did become tied up. I do not know whether it was tied up as late as [428] September or not.

Mr. RIDER.—That is what I am asking him particularly about.

Mr. McGINN.—I know, Mr. Rider, that there was a suit between Causten and Barnette, but I do not know anything about the circumstances.

Q. Do you know whether the stock was tied up by reason of that suit in the fall of 1908? A. No, sir.

Q. Do you know whether the stock was tied up by reason of that suit prior to the shutting down or not?

A. No.

Q. You mean that you don't know?

A. I don't know; I never heard at that time that it was.



(Deposition of J. S. Mackenzie.)

Q. Now, Mr. Mackenzie, all the timber immediately adjacent to the mill belonging to the Gold Bar Lumber Company has been cut, has it not?

A. We have—well, now—we have twenty-five million feet.

Q. How near the mill?

A. We have fourteen million feet nine miles from the mill where we were logging at the time we closed down on December 20th last year, and then we have eleven millions which is about a mile farther. The balance is about four and a half miles east of the mill.

Q. That is the closest timber you have?

A. Yes, sir, but it is really closer to the mill than where we are logging at the present time. [429]

Q. But what I mean is in regard to the property immediately around the mill in the valley, that has all been cut?

A. Oh, yes, that has all been cut.

Q. And the valley land has been sold, has it not?

A. Yes, sir.

Q. Do you know when it was sold?

A. It has been sold—been selling more or less ever since the company bought it.

Q. That is the land between the mill and the mountain? A. Yes, sir.

Q. Now, you have to haul the timber by rail from where it is cut, down to the mill? A. Yes.

Q. How far do you have to haul it?

A. About nine miles.

Q. And that is over that mountain?

(Deposition of J. S. Mackenzie.)

A. Yes, sir.

Q. How many switch-backs are there on that mountain to get to where you are cutting?

A. Eleven.

Q. There are eleven switch-backs?      A. Yes.

Q. The cost, then, of the production is increasing by reason of the distance of the lumber from the mill and the difficulty in getting at it?

A. Slightly.

Q. Over what it was in 1907 and 1906, is it not?

A. Slightly, I should not say very much.

Q. The farther back on the mountain you go the more it costs you to produce the lumber, doesn't it, because of the [430] distance you have to haul it and the difficulty?

A. That doesn't make very much difference in the cost.

Q. It does not?

A. When the logs are once loaded on the car it is immaterial whether you haul them nine miles or five miles, it costs a little more but not as much as a person would think, in proportion.

Q. The land back on that mountain is all rocky, rough land, is it not?      A. Yes, sir.

Q. And when cleared off it will be worthless?

A. It might be worth something for grazing, but not very much.

Q. How much would it be worth an acre?

A. On an average?

Q. Yes.

A. It could not be worth over three dollars.

(Deposition of J. S. Mackenzie.)

Q. Is there any of the land now owned by the Gold Bar Lumber Company which, when logged off, will be suitable for agricultural purposes?

A. There are places here and there.

Q. Just little spots?      A. Just benches.

Q. Just little benches?      A. Little benches.

Q. Any considerable quantity?      A. No.

Q. Mr. Mackenzie, you remember of my being out there at the mill last fall with the photographer, don't you?      A. Yes. [431]

Q. I wish you would examine these plates numbers 1 and 2, which have heretofore been offered in evidence, and tell me if that represents the view of the Gold Bar Lumber Company's property from your mill and between your mill and the mountain and on the mountain.

A. We do not own any of that now.

Q. Does it show any that is owned by the Gold Bar Lumber Company?      A. Yes.

Q. Back on the mountain?

A. Up there (showing).

Q. This low land in the valley between the bottom of the picture and the mountain, the logged-off land was formerly owned by the Gold Bar Lumber Company, wasn't it?      A. Yes.

Q. It has been sold?      A. Yes.

Q. And when was it sold?

A. Some of it was sold as far back as 1903.

Q. And when was the last of it sold?

A. 1912.

Q. How much of it had been sold prior to March,

(Deposition of J. S. Mackenzie.)

1908?     A. Very little.

Q. Can you give me an estimate in acres—that is the time when the Fairbanks Banking Company acquired it, March, 1908?

A. I should say—do you mean what would be shown in this picture?

Q. Yes, in these two pictures.

A. One hundred and fifty acres. [432]

Q. And then when was the remainder of it sold; between what dates?

A. Between 1908 and up to March, 1913.

Q. What portion of it was sold prior to January, 1911, or if you can remember the time it was sold approximately. I would like to have it that way.

A. I don't know that I could recall that.

Q. Now, will you examine plates Nos. 4 and 5, which are a closer view of the same background shown in plates Nos. 1 and 2 and state whether they show the property of the Gold Bar Lumber Company.

A. Yes. That was the property of the Gold Bar Lumber Company—nothing that they own now.

Q. There is nothing immediately in the foreground that they own now, but it shows something back on the mountain in the rear, that is owned by them now?

A. No; I think it is all over the hill—you can't see that.

Q. Does that show the general character of the land that is now owned by the Gold Bar Lumber

(Deposition of J. S. Mackenzie.)

Company after it has been logged off?

A. Yes, sir.

Q. Whereabouts is the property that you bought from Weyerhaeuser which you referred to, that is, about how far and in what direction from the mill—I will take that as a starting point?

A. It is a half a mile north of the mill.

Q. And looking from the mill toward the mountain, in which direction are you looking?

A. Almost due north.

Q. Then this Weyerhaeuser property is no longer owned by the [433] company? A. No, sir.

Q. It has been sold? A. Yes.

Q. And logged off? A. Yes.

Q. What was the character of the timber on the Weyerhaeuser property?

A. It was good, sound timber.

Q. Was it in the valley? A. Yes.

Q. It was valley stuff? A. Yes, sir, part of it.

Q. Is that valley timber larger and of better quality than the timber up on the mountain?

A. It is larger, but not so sound. I should say it would run a little more to clears than the mountain timber.

Q. Do you mean that it would cost more to clear the land?

A. No, I mean that it would run a little more to the upper grades of timber.

Q. It would be a little better class of timber than the timber up on the mountain, you mean?

A. Yes. I want to say, Mr. Rider, that there were

(Deposition of J. S. Mackenzie.)

two tracts bought from Weyerhauser. One was eighty acres on the flat; the other was a quarter section adjoining where we are logging now—in fact, a part of what we are logging now.

Q. Did you pay the same price for both of them?

A. Yes, sir.

Q. Now, the value of the townsite property carried on these statements has been—the book value of it has been increased [434] a couple of times, has it not? A. Yes, sir.

Q. Do you remember what it was carried at in October, 1907?

A. No, I do not. The statement says that the real estate was \$18,400.

Q. That means the townsite property?

A. Yes, sir.

Q. That valuation was after the increase had been made?

A. Yes, sir. May I state the reasons for that increase? The company built ten houses in the town at a cost of, I should say, roughly speaking, \$600 apiece, and three houses at about \$300 apiece. That was the reason for the increase.

Q. When was the next increase made in that property? A. I don't think there was any.

Q. Was there not two increases made in that property?

A. I don't remember. I see it was increased again in 1909.

Q. Increased how much at that time?

A. \$5,000.



(Deposition of J. S. Mackenzie.)

Q. Then that makes a total increase of \$18,000?

A. No, a total increase of \$10,000 since 1906.

Q. What was the amount of the first increase?

A. In 1906 the real estate is listed at \$13,744, and in 1907 at \$18,400 a difference of \$4,800, and in 1909 \$23,550, that was an increase of \$10,000 in the two years.

Q. Do you remember how many acres there were that were purchased from Weyerhaeuser?      A. No.

Q. 320, were there not?

A. No, I would not think there was; I think it was about [435] 240. I should judge it was a quarter of a section and two 40s. I do know that the tract in the valley was 80.95 acres. I know that to be a fact—the piece on the hill, I think, was a quarter of a section.

Q. My memorandum shows 320.95 acres.

A. I do not know why that should be, because in section number 29, that is the piece on the hill, originally the company owned half of it and they bought 160 acres more which gives them three-quarters of a section, and the Port Blakely Mill Company still owns the other quarter, and on the flat there was 80.95 acres. Still I am not positive about that, but that is my impression. I should not be surprised though but that the 320 acres is right, because 240 acres would hardly cruise 20,000,000 feet.

Q. I think that is right.

A. There was 5,000,000 on the flat, which would leave 15,000,000 on the hill, and it would take pretty near half a section to cruise that much.

(Deposition of J. S. Mackenzie.)

Q. And that was purchased for \$45,000.

A. Yes, sir.

Q. Was the timber on that heavier, that is, did it cruise more feet per forty or per acre, from your estimate than the timber up on the mountain?

A. The eighty acres would on the flat.

Q. Well, how about the other?

A. The other would not. It was just the same class of land that we are logging now.

Q. What was the condition of the lumber market in the fall of 1907 and the first part of 1908?

A. Very poor. [436]

Q. When that increased valuation of timber lands was made it was credited to the surplus account, wasn't it? A. Yes.

Q. And that partly accounts for the increase in the surplus account? A. Yes.

Q. Then there was also \$100,000 in cash, paid in by the stockholders, was there not?

A. I don't know anything about that.

Q. You don't know anything about that being made at any time?

A. No, sir, I never heard of it.

Q. December, 1906, do you know about the stockholders paying in \$100,000 in cash?

A. I never heard of it. Mr. Johanson was manager at that time and Mr. Armstrong was assistant.

Q. You do not know anything about it being carried to the surplus account then?

A. No, I do not. My duties were all outside at that time.

(Deposition of J. S. Mackenzie.)

Q. There have been no other purchases of timber except this Weyerhaeuser tract, have there?

A. No.

Q. And nothing else to increase the value of the property except such increase as would naturally follow from manufactured lumber over the raw timber.

A. The increase in the output; the increase in the machinery. You see in 1906 when they bought the plant the mill was cutting about 40,000 a day, and now it cuts about from 100,000 to 110,000.

Q. And in order to increase that equipment you took the [437] former profits of the mill and put it back into equipment. A. Yes.

Q. Now, when the timber is cut that mill property will be practically worthless, will it not?

A. It would be, without any more timber.

Q. When the timber that the Gold Bar Lumber Company now owns out there is cut, that property will be practically exhausted?

A. Unless they arrange to purchase more timber.

Q. They must purchase more timber in order to have the mill property and equipment up there of any value? A. Yes, sir.

Q. And in order to keep that mill going with the equipment that it has, how much timber should the company own? A. To keep it going right along?

Q. Well, to keep it running, we will say to run it a year, how much timber should it own in order to keep that mill going with the equipment that it has, for a year? A. Well, we cut 18,000,000 a year.

(Deposition of J. S. Mackenzie.)

Q. That is your output?     A. Yes.

Q. And the timber now costs you how much, did you say?     A. That is to buy?

Q. Yes.     A. It can be bought from \$2.50 up.

Q. Well, timber adjacent to this mill?

A. \$2.50.

Q. And in such a neighborhood that it can be used at this mill? [438]

A. Well, I know of one tract in particular which can be bought for \$2.50 immediately adjacent to what we now own.

Q. How many feet of timber do you think that the Gold Bar Lumber Company now has out there?

A. About 70,000,000.

Q. And what do you figure necessary for the upkeep of that mill annually, when it is in operation?

A. The expenses of keeping it up?

Q. Well, to keep it equipped as it is now and in repair?

A. I do not know that I could arrive at that.

Q. You could not arrive at it?

A. No. That all depends on how much machinery we break up, and so forth.

Q. It is problematical?

A. Yes, sir, it would be—it would be impossible to arrive at it.

Redirect Examination.

Q. (Mr. McGINN.) Mr. Mackenzie, in the statement of October 1, 1907, the timber was carried at the valuation of a dollar and a half per thousand feet?     A. Yes.

(Deposition of J. S. Mackenzie.)

Q. Was that, in your opinion, a fair and reasonable estimate of the value of the timber?     A. No.

Q. How much do you think the timber was worth at that time, per thousand feet?

A. I should say it would be worth from \$2.00 to \$2.25.

Q. And the price per thousand feet was raised by the Gold Bar Lumber Company about that time, wasn't it?     [439]     A. Yes.

Q. Now, you say there is about 70,000,000 feet of timber on the property at the present time.

A. From actual cruise there is about 70,000,000.

Q. But that would run, as a matter of fact, about 12½ per cent greater?

A. Yes, sir, it should run about 80,000,000.

Q. Can you tell at this time what the amount of timber was in April, 1910?

A. Judging from these statements, October 1, 1909, shows 135,000,000, and October 1, 1910, shows 115,000,000. I should say that there would be 125,000,000 in April, 1910.

Q. Now, you say the mill depreciates about 10 per cent per annum?     A. Yes, sir.

Q. And after the timber is all cut off that property, provided that the Gold Bar Lumber Company did not purchase any more adjacent or near to it, the mill and the other property there could be sold for something, could it not?

A. The machinery and site, yes, could be sold. The buildings of course, would be no good.

Q. The mill itself?     .

(Deposition of J. S. Mackenzie.)

A. The mill itself—the machinery and site.

Q. Do you think it could be sold for 50 per cent of its present worth?     A. Yes, sir.

Q. On cross-examination you made the statement that the valuation placed upon the timber of \$204,-956.05, plus [440] 12½ per cent, would be a fair estimate of the value of the timber lands at that time; did you mean that?

A. No, I did not. I don't believe I stated that. What I did say was that 12½ per cent could be added to the amount shown on that statement on account of the difference between the actual cut and the cruise.

Q. Then on the top of that fifty cents per thousand feet, so as to arrive at a fair and just and reasonable valuation—

A. Yes, sir, at a fair valuation.

Q. Now, I asked you in regard to that statement of October 1, 1908, and of the values that were set forth there—the same values, approximately, existed in March of that same year, didn't they?

A. Yes; that is the year that the mill did not operate.

(Deposition of witness closed.)

[Endorsed]: Received. Clerk of the Court Office Apr. 20, 1914, Fairbanks, Alaska. Filed in the District Court, Territory of Alaska, 4th Div. Apr. 29, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy. [441]

By Mr. McGINN.—I now desire to read the deposition of M. W. Peterson. (Reads same.) [442]



**[Deposition of M. W. Peterson, for Defendants.]**

M. W. PETERSON, produced as a witness in behalf of defendants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. McGINN.) State your name.

A. Marshal W. Peterson.

Q. Where do you reside?

A. Seattle, Washington.

Q. How long have you resided there?

A. Sixteen years.

Q. And what is your occupation?

A. Cashier of the Dexter-Horton National Bank.

Q. Of Seattle, Washington?

A. Of Seattle, Washington.

Q. How long have you been cashier of that bank?

A. I do not recall; as nearly as I can remember I was in the bank two years before they officially made me cashier, though I had been filling that position from the time I arrived in Seattle.

Q. I will ask you to state whether or not you were the cashier of that bank in the month of March, 1908? A. I was.

Q. Are you acquainted with an institution known as the Fairbanks Banking Company? A. Yes.

Q. Of Fairbanks, Alaska? A. Yes.

Q. I will ask you to state whether or not you received any communication from them in March, 1908, relative to the value of the stock of the Gold Bar Lumber Company of Gold Bar, State of Washington? [443] A. Yes.

Q. What kind of a communication was that which

(Deposition of M. W. Peterson.)

you received at that time?

A. It was a telegram received from the bank.

Q. Did you reply to that telegram?     A. Yes.

Q. That is, the Dexter-Horton National Bank replied to it?     A. Yes, sir.

Q. I will show you a letter which is a copy of the original, and which is dated March 18, 1908, addressed to the Fairbanks Banking Company of Fairbanks, Alaska, and which is unsigned, and I will ask you to state whether or not that is a copy of a letter which was forwarded by the Dexter-Horton National Bank to the Fairbanks Banking Company of Fairbanks, Alaska (showing document to witness).

A. Yes, sir, this is the letter we sent them.

Q. And this letter purports to contain a copy of a telegram which was received by you from the Fairbanks Banking Company?     A. Yes, sir.

Q. And this telegram reads: "Please advise by telegraph at the earliest possibility last reliable report of valuation Gold Bar property. What is opinion of yourselves regarding the property. Wood will explain what we mean by Gold Bar property."

Mr. RIDER.—Is that regarding the property or regarding the report?

Mr. McGINN.—Regarding the property.

Mr. RIDER.—"What is opinion of yourselves regarding property"? [444]

Mr. McGINN.—"Regarding property."

Mr. RIDER.—My copy says "report."

Q. (Mr. McGINN.) In pursuance of the request

(Deposition of M. W. Peterson.)

contained in that telegram, what did you do, Mr. Peterson?

A. We got a report from the commercial agencies, from Dun's commercial agency and Bradstreet's, we got a report and then called upon several of the timber men and large sawmill owners in Seattle asking for their personal opinion in regard to it. There was no one in our bank had ever seen the property, other than to see it from a car window as we went by the property. And then we secured a report from Wood, and turned that over to our credit department to analyze the report and endeavor to substantiate the figures; and we arrived at the valuation that we set forth in that letter.

Q. This report was furnished you by Mr. Armstrong who was the then manager?

A. By Mr. Armstrong, the manager.

Q. And you say you made independent inquiries of timbermen and sawmill men who were acquainted with the property?     A. Yes, sir.

Q. Do you know what particular persons you made inquiries of at that time?

A. I recall two or three. Charles E. Patton—

Q. Who is Charles E. Patton?

A. The president of the Atlas Lumber Company, one of our leading citizens in Seattle.

Q. He is a timber man of some experience?

A. Yes, sir, of many years' experience.

Q. And was he acquainted with this particular property? [445]

A. Yes, sir. At one time he had endeavored to

(Deposition of M. W. Peterson.)

buy the property, hoping to get a location on the Great Northern Railway, as his present mill is on the Northern Pacific Railway, and that would bring him into a different territory there, and he was quite familiar with it. And C. A. Bean of the Canyon Lumber Company of Everett.

Q. And is he also a lumber man of experience?

A. Yes, sir, he has the biggest mill on Puget Sound.

Q. And was he acquainted also with this property?

A. Yes, sir, he knew the property. And D. W. Bass.

Q. Is he a timber man also?

A. No, he is a lawyer and he is now manager of the Frye Hotel—he married into the Frye family—but he had been into that country and had cruised this land and he had more personal knowledge of the property than any one else we talked with.

Q. Did he and Patton operate together?

A. They were very close friends, and I think they had mutual interests.

Q. Were they not negotiating about that time, or prior to the time that Captain Barnette purchased the property, were they not looking after it?

A. It is my impression that they endeavored to buy it from Captain Barnette, or just about the time that Barnette got into it. As I say, they were wanting to get a mill on the Great Northern Railway.

Q. Now, from the investigation which you made at that time what, in your opinion, was the reason-

(Deposition of M. W. Peterson.)

able fair market value of the Gold Bar property?

(Counsel for plaintiff objects as irrelevant, [446] immaterial and incompetent.)

A. Well, the sale of a piece of property is just a bargain. It is worth all you can get for it. But these men that we talked with at that time, they knew the circumstances under which we were holding the property and that all we cared for and all we expected for it was \$400,000, for although they were trying to buy it themselves, they said they were looking for a bargain. Every one of them referred to it as being a magnificent property.

Mr. RIDER.—I move to strike out the answer of the witness for the reason that the same is incompetent and based upon no proper basis of value and not the proper method of determining the value of property, and purely speculative, and is merely information that is based upon pure speculation.

Q. (Mr. McGINN.) In the letter and telegram which you sent to the Fairbanks Banking Company in response to their telegram you state that you believe it could be sold for more than \$425,000.

A. Yes.

Q. You considered that at that time a conservative estimate of the value of that property.

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent in its form.)

A. Yes.

Q. Who owns the Gold Bar Lumber Company at the present time?

A. The Dexter-Horton National Bank owns four-

(Deposition of M. W. Peterson.)

fifths of the capital stock and Carl M. Johanson owns one-fifth of the capital stock.

Q. Are you acquainted with the value of timber in the [447] immediate vicinity of the Gold Bar Lumber Company's property, as to what it is being held for?

A. It is being held for \$3.50 per thousand and it is very hard to buy any at that price. The only basis on which a trade can be made is that we must purchase some timber elsewhere adjoining on the Stimson tracts in some other part of the county. They do not want to decrease their present holdings of timber. They are willing to sell if we replace it somewhere else—if we replace it with timber adjacent to some other parts of their timber, but they are only willing to trade on the basis of \$3.50 per thousand, that is they were about three years ago.

Q. Do you know what they were holding timber for about March, 1908?

A. I think that matter came up, but I cannot recall it now, I could not say under oath.

Q. Do you know what they were holding it for, say in April, 1910, in the immediate vicinity of Gold Bar?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. Their price right along has been \$3.50, but how far back it was when we first got that price, I could not say.

Q. What would you place the value of the timber per thousand upon the property at the present time



(Deposition of M. W. Peterson.)

—on the Gold Bar Lumber Company's property?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. In selling that property I simply got back a claim that the bank has— [448]

Mr. RIDER.—I object to that and move to strike it out as not responsive to the question.

Q. (Mr. McGINN.) I am asking you at what you place the value of the timber per thousand upon the Gold Bar Lumber Company's property at the present time?

A. We have not placed any fixed value on it.

Q. What would you regard as a fair valuation per thousand feet for the timber upon the property?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. We put a value on the whole property, and not on the timber alone.

Q. What valuation did you put on the entire property?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. \$300,000.

Q. \$300,000? A. Yes, sir.

Q. That is, at the present time?

A. At the present time, yes, sir.

Q. Had it a greater value in 1908?

A. Yes, sir; there has been a great deal of timber cut off the land since then.

Q. Had it a greater value in 1910, say in April, 1910? A. Yes.

(Deposition of M. W. Peterson.)

Q. Now, you say that you placed that value on it; do you mean by that that you would not sell it for less than that?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. It is the duty of the bank to get its loans back, and we [449] won't carry that property as a speculation for the bank. We have, as you know, certain duties, and it is our duty to clean up our debts just as fast as we can, and we would sell that property for much less than what it is worth in order to get our money out of it. We do not want to go into the sawmill business and run a manufacturing plant up there, which we would have to do if we keep it.

Q. If you were to keep it don't you regard that it would be of greater value than \$300,000 for manufacturing?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. In the hands of a mill man it is very valuable property, but in the hands of a bank it is not so valuable, for the reason that people know that we are holding it against our will, and it is a pretty hard proposition for us to trade it off, but if we continue in the manufacturing business we could probably make it pay us away beyond the amount of our claim.

Q. Are you acquainted with Carl M. Johanson?

A. Yes, sir.

Q. Are you acquainted with his signature (showing document to witness)?

(Deposition of M. W. Peterson.)

A. I should say that was his signature.

Q. I will ask you to state whether or not that communication was received by the Dexter-Horton National Bank from Carl M. Johanson?

A. I could not say whether we ever got that letter or not. It is addressed to Mr. Parsons. It undoubtedly was received by us, but I cannot say that I ever saw it before. [450] I think the original of these letters are up in Valdez. They were subpoenaed when Mr. Rathbun was up there as a witness and I think they were introduced, and some of them have the filing marks on them.

Mr. MCGINN.—I will ask to introduce this in evidence, and ask that it be copied into the record at this place.

Mr. RIDER.—To which offer the plaintiff objects as irrelevant, immaterial and incompetent.

(The above document is received in evidence, marked Defendants' Exhibit "No. 6," attached hereto and returned herewith, and the same is read into the record as follows:)

(On letterhead Gold Bar Lumber Co.)

"Seattle, Washington, Oct. 13, 1913.

Mr. W. H. Parsons,  
Seattle, Wash.

Dear Sir:—

Enclosed find the general report of operation at the mill for September. While the profits show small, I think it is fairly good considering the present condition of the lumber market. The extension of our logging railroad has cost us considerable

(Deposition of M. W. Peterson.)

money the last two months, but it had to be done before the bad weather set in, in order to get the best results for the least money, but from now on, we will not have this drain on us and will be able to reduce our bank obligation still further—the present month, the 30th of September was our yearly date for closing books for the preceding year, and we charged off the bad accounts and depreciated some of the items in order to be within a reasonable figure of their actual worth. The depreciation was something like \$40,000 and I enclose a statement of resources and liabilities after the depreciation has been made. The only item showing an undervaluation is the timber, which on the old cruise shows a little over 72 millions, but as our old cruise has overrun about 15% we undoubtedly have about 80 to 85 million feet of standing timber left.

Yours very truly,

CARL M. JOHANSON."

Q. (Mr. McGINN.) Here is a statement of the resources and liabilities of the Gold Bar Lumber Company, dated [451] September 30, 1913, which shows net resources September 30, 1913, \$344,941.92; I will ask you to state whether or not, in your opinion, that was about correct?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. I can only say that we are led to believe that that was a fair valuation for that property. We will know more about it when we have had it thoroughly surveyed and gone over by our own men.

(Deposition of M. W. Peterson.)

Q. Mr. Johanson was in charge of the property at that time.

A. Yes, and we have every confidence in his judgment in the matter.

Q. And he is a man of some experience in the timber business?     A. Yes.

Q. And is conservative in his estimates?

A. We find the mill is a very much better piece of property than we had any idea of. We thought it was one of those mills which would saw a piece of timber one inch thick at one end and two inches thick at the other; that the machinery was all out of line, but Mr. Smith and Mr. Kerry have been up there and gone through the mill and they found the mill is really the best part of the property.

Q. (Mr. RIDER.) Are you testifying about a matter which you have personal knowledge of or what Mr. Kerry and Mr. Smith reported to you?

A. They reported it to our board of directors.

Mr. RIDER.—I move to strike out the answer for the reason that it is incompetent, and based upon hearsay evidence entirely.

Q. (Mr. McGINN.) I show you what purports to be a statement [452] of the Gold Bar Lumber Company, showing the net resources on October 1, 1909, and I will ask you to state whether that statement was received by you from the Gold Bar Lumber Company, and also one of October 1, 1910, and I will ask you to state whether those reports were received by you from the Gold Bar Lumber Company. (Showing.)     A. Yes,

(Deposition of M. W. Peterson.)

Q. That is a copy of the originals which you received?     A. Yes.

Mr. McGINN.—I offer these in evidence.

Mr. RIDER.—Plaintiff objects to their reception in evidence for the reason that they are incompetent, irrelevant and immaterial.

(Documents received, marked Defendants' Exhibits "No. 7" and "No. 8," attached hereto and returned herewith.)

Cross-examination.

Q. (Mr. RIDER.) Mr. Peterson, the letter to which your attention was called from your bank, in answer to the telegram to which your attention was called, is dated March 18, 1908, is it not (showing)?

A. Yes.

Mr. RIDER.—Did you offer that in evidence, Mr. McGinn?

Mr. McGINN.—I will do so now.

(Copy of a letter and telegram above referred to is received in evidence, marked Defendants' Exhibit "No. 5," attached hereto and returned herewith.)

Q. (Mr. RIDER.) How long, in the ordinary course of mail, would it take a letter mailed from here in March, 1908, [453] to reach Fairbanks, Alaska?

A. I have not any idea. I don't know.

Q. Your bank carried on considerable communications by mail with the Fairbanks Banking Company at that time, didn't it?

A. Yes, but there is no schedule of mails ever perfected where you could depend on getting a letter in



(Deposition of M. W. Peterson.)

there in ten or twenty days or two months.

Q. It never takes shorter than two weeks, does it?

A. Hardly, to Fairbanks.

Q. Your bank also replied to the Fairbanks Banking Company by telegram, didn't you?

A. Yes, sir.

Q. What is the date of that telegram?

A. There is no date. It says, "We have therefore telegraphed to you as follows"—

Q. Never mind reading it—what was the date of it?

A. There is no date on it.

Q. The only information you have is from the telegram copied in your letter.

A. We have other copies in the bank.

Q. I mean, your present information?

A. Yes, right here.

Q. Did you write that letter which has been identified as exhibit No. 5?

A. I am not positive whether Mr. Spangler or I dictated the letter. I evidently signed it. I see my stamp is on there.

Q. And the telegram referred to in your letter was that prepared by you or with your knowledge?

A. Yes, sir; it was with my knowledge and consent, but whether [454] I actually held the pencil and wrote the telegram, I cannot say.

Q. That telegram was sent on the same day the letter was prepared?

A. I presume so, I could not say without I first saw the copy.

Q. You would not be able to identify the date from

(Deposition of M. W. Peterson.)

the copy of the telegram which I hand you (showing)  
—the telegram was sent in cipher, was it not?

A. Partly, I think.

Q. Can you identify that paper which I now hand you as the telegram with the translation at the bottom (showing)?

A. Yes, that would be the telegram.

Q. Now, that copy which I hand you bears date of March 18th?     A. Yes.

Q. Does that help you to remember the date?

A. No, no. That is farther back than my memory goes.

Q. Now, you say that as a part of your basis for that report embodied in this telegram and the letter, was the report made to you by Mr. Wood?

A. Mr. Wood.

Q. Yes, didn't you?     A. No.

Q. Didn't you say you secured a report from Mr. Wood in addition to reports from Dun's and Bradstreet's and parties who were engaged in the lumber business?

A. That is the report which Mr. Armstrong—the company's report—I think it was brought in by Mr. Wood and Mr. Armstrong together.

Q. It was the Armstrong report, then, which you referred to. [455]

A. Yes; it is referred to as the Wood report.

Q. Did you know a broker here, or who was engaged here at that time, by the name of O. W. Brown?

A. There was such a firm as that in Seattle.

(Deposition of M. W. Peterson.)

Q. Did you communicate with him?

A. We sent our credit manager—

Q. Who was that?      A. Mr. J. W. Spangler.

Q. Did you send him to Mr. O. W. Brown at the suggestion of Mr. Wood?

A. I think Mr. Wood gave us the names of two or three persons who were more or less familiar with the property and thought it might aid us in making our investigation.

Q. Do you remember whether Mr. Brown was one of those persons or not?

A. I thought I had that name on a slip of paper—wasn't that O. W. Brown and some other person?

Q. You got in touch with O. W. Brown, then, through Mr. Wood?

A. I don't know where we got the name from, but I have a firm of that name on a slip of paper.

Q. And you sent your credit man to communicate with Mr. Brown before you sent that telegram and letter.

A. I can't swear as to that; it was about the same time we looked into it.

Q. You did not make any investigation after you sent the telegram and letter, did you?

A. We continued our investigations for a number of months, as the stock of that company was in and out of our bank as collateral, and naturally we wanted, for our own benefit, to find out about what it was worth. [456]

Q. Do you remember whether or not Mr. Brown was referred to you by Mr. Wood for your exclusive

(Deposition of M. W. Peterson.)

information in reference to this matter?

A. I cannot say.

Q. In your letter and telegram of March 18 you state that in your opinion the property is worth \$375,000 for a firm basis of credit, didn't you?

A. Yes.

Q. Now, do you remember the receipt by your bank in the month of August, 1908, of a telegram from the Fairbanks Banking Company asking you to extend credit upon this Gold Bar stock?

A. I do not recall the incident.

Q. I hand you what purports to be a copy of a telegram dated August 27, 1908, addressed to the Dexter-Horton National Bank and signed by the Fairbanks Banking Company, and I will ask you if you can identify it as a telegram received by your bank. (Showing document to witness.)

Mr. McGINN.—To which we object as irrelevant, immaterial and incompetent and as having nothing to do with the issues of this case and not cross-examination. A. Yes, we got that telegram.

Mr. RIDER.—I would like to have that marked for identification as “exhibit A” to the deposition of M. W. Peterson.

(Document marked as above and returned to counsel for plaintiff.)

Q. In answer to that telegram of August 27, did you not, as the cashier of the Dexter-Horton National Bank, reply by letter dated August 31.

Mr. McGINN.—We will admit that there was a letter sent, but we object to it on the grounds already stated [457]

(Deposition of M. W. Peterson.)

Mr. RIDER.—I show you the letter (showing).

A. Yes, sir, that is my letter.

Mr. RIDER.—I will ask you to have this letter marked “Identification B to the deposition of W. M. Peterson.”

(Document marked as above and returned to counsel for plaintiff.)

Q. Now, I hand you what purports to be a copy of a letter signed by you as cashier, and addressed to the Fairbanks Banking Company, dated September 4, 1908, and I will ask you whether you can identify it as the copy of a letter which you wrote to the Fairbanks Banking Company on that day (showing).

Counsel for defendants interposes the same objection.)

A. Yes, sir.

Q. That is your letter, is it?      A. Yes, sir.

Mr. RIDER.—I will ask to have that marked for identification as “exhibit ‘C’ to the deposition of M. W. Peterson.”

(Document marked as above and returned to counsel for plaintiff.)

Mr. RIDER.—The plaintiff now offers in evidence the letters marked for identification as exhibits “A,” “B,” and “C” to the deposition of M. W. Peterson, stating that in such cases as he can he will supply the originals at the trial.

Mr. McGINN.—To which we object on the ground that the same are irrelevant, immaterial, incompetent and not pertinent to any of the issues in the

(Deposition of M. W. Peterson.)  
case and not proper cross-examination.

Q. (Mr. RIDER.) Now, Mr. Peterson, in this telegram of August 27, which has been marked for identification as exhibit "A" the bank asked you what amount of credit you could extend for the winter on Gold Bar, and in your letter of August [458] 31 you refer to a telegram from you dated September 5 stating that you will advise later concerning Gold Bar, which telegram is copied in identification B; you can identify that telegram, can you, from the copy contained in your letter—it is right at the top of the letter (showing).

Mr. McGINN.—It is understood that our objection runs to all this testimony.

Mr. RIDER.—Yes.

The WITNESS.—Yes, that is the telegram at the top of the letter.

Q. Now, in the letter of August 31, you state, in reference to their telegram asking that Gold Bar be taken as collateral, "that Mr. Spangler in charge of our credit department will go to Gold Bar some time this week and make a thorough examination of the mill property and endeavor to ascertain the exact condition of the company. We cannot tell whether we wish to take the stock of the company or not. At the present time the lumber industry is at a standstill; practically no business being transacted." Why, was it necessary, Mr. Peterson, to have Mr. Spangler make this investigation at this time when you had made such a thorough investigation in the March preceding?



(Deposition of M. W. Peterson.)

A. In every large loan that we make where we are liable to fall heir to the security, we take every precaution, and in this case we had a credit department and a man in charge of it and we might as well use him, and I do not recall what his report was unless it appears later among these papers, I do not recall what his report was.

Q. But you stated in March that it had a firm basis of [459] credit for \$375,000? A. Yes, sir.

Q. There had been nothing occurred to depreciate the credit of that stock, had there?

A. They may have sold their timber land; they may have gone into debt. We wanted to put a man right on their books to see whether they still were the holders of these valuable timber lands.

Q. Hadn't you done that in March?

A. Yes, but you could get rid of it all in two minutes with a good lawyer to draw your deeds.

Q. But the records would show that?

A. Yes, but we did not have the records in our office.

Q. You would have to go to their office to examine the records?

A. We would have to go to their office and to look in their ledgers to find out what their own books showed.

Q. And you did that for the purpose of advising yourself as to whether they still owned the property which they owned in March? A. Yes, sir.

Q. And that was the purpose of Mr. Spangler's investigation? A. Yes.

(Deposition of M. W. Peterson.)

Q. If, as a result of your investigation, it had been found that they still owned the property, then you would have accepted Gold Bar as collateral for this loan?

A. We had other collaterals at this time.

Q. Well, would you have accepted Gold Bar?

A. Not by itself, no. We wanted some notes of merchants.

Q. You did not accept it, then, did you? [460]

A. No, I don't recall that we did until a later date.

Q. In your letter of September 4th, marked as exhibit "C," you use this language: "In one of our previous telegrams you asked us what advances we would make against the stock of the Gold Bar Lumber Company. We have not yet finished our investigation and have not fully determined what our course will be, but from present indications will be unable to accept the stock as security for advances"—but it still had that firm basis of credit for \$375,000.

A. Yes, but in October, 1907, we had the panic in this country and stocks in all the sawmills were about the poorest collaterals a bank could take and particularly with the chances that the panic would be prolonged and it might cause disaster to many of these little companies engaged in the sawmill business.

Q. That was in October, 1907? A. Yes, sir.

Q. And prior to the date of your report in March, 1908? A. Yes, sir.

Q. And the operation and the effect of that panic

(Deposition of M. W. Peterson.)

upon Gold Bar was just as apparent in March, 1908, as it was in September, 1908, was it not?

A. Well, the first blow of a panic is the easiest thing to get over. After that you slowly bleed to death from a panic. We wanted to sit back and see how the general finances throughout the country were going to adjust themselves to the situation.

Q. Had there been any change by September, 1908?

A. Well, the situation was much clearer at that time. [461]

Q. And based upon the financial situation then, Gold Bar would be more acceptable in September than in March? A. Possibly.

Q. As far as any effect caused by the panic was concerned? A. Possibly.

Q. Well, wouldn't it?

A. Yes, sir. Our deposits were rather steady, although they shrunk some, and in the face of the panic we did not care to make big loans, and we did not care to make a loan of any kind.

Q. I am asking you now about the effect of the panic upon Gold Bar stock as a security; it would be more acceptable, Gold Bar stock would be more acceptable in September, 1908, than it would in March, 1908, so far as the influence of the panic of October, 1907, affected it.

A. No, I would not say that it would be more acceptable, because for instance we had a panic in 1903, but in 1907 the conditions were worse than they were in 1903.

(Deposition of M. W. Peterson.)

Q. Were they worse in September, 1908, than they were in March, 1908?

A. The people were not making any new investments at that time.

Q. That is not what I asked you. My question is whether the conditions were any worse in September, 1908, than they were in March, 1908?

A. Well, I cannot recall what the interest rates in September, 1908, were.

Q. Now, knowing the effect of that panic of 1907, upon the stocks of the character of Gold Bar, why did you report to the bank that Gold Bar in March, 1908, had a firm basis of [462] credit for \$375,000 when you would not accept it at all for credit in September, 1908?

A. Well, possibly there were outside conditions that would prevent us from making a loan of that size. A \$250,000 loan is a big loan for any bank to make, especially for a bank that is a thousand miles away from us, in a country where communications were very hard.

Q. Were there such outside conditions—you say that possibly there were?

A. Undoubtedly there were conditions like that. We did not like to make loans to banks in Alaska; such loans are not gilt-edge and we approach them with a great deal of hesitation.

Q. You were just as careful in reporting to them in March on the valuation of this property as you would have been if you were at that time making a loan upon it, were you not?

(Deposition of M. W. Peterson.)

A. Well, we used our best endeavors to make a correct report on the property.

Q. You did not intend the deceive them.

A. We had no interest in it whatever.

Q. I say you did not intend to deceive them?

A. Certainly not; how could we gain anything by deceiving them.

Q. And you reported it as having a firm basis of credit for that amount at that time?     A. Yes.

Q. And it lost that between that time and September, didn't it?

A. Well, we did not want to make the loan for the bank, that [463] was all.

Q. As a matter of fact, Mr. Peterson, your report of March, 1908, was based entirely upon the report of the condition of Gold Bar as shown by Mr. Armstrong's itemized statement, together with a copy of the trial balances of that day, wasn't it?

A. No. Our report was gathered from information that we got from that report and the report from Dun's and Bradstreet's and from personal interviews with parties like Patton and Bean and I think two other persons whose names were given to us, I don't know by whom now, O. W. Brown and some other person.

Q. How far did O. W. Brown's report influence you?     A. I do not recall.

Q. It had considerable influence, did it?

A. I do not recall—I do not recall what information we got from him.

Q. Now, you say that you are now the owners of

(Deposition of M. W. Peterson.)

four-fifths of that stock. You base that ownership upon the fact that your bank bid in the stock at the foreclosure proceedings recently had, don't you?

A. Yes.

Q. And an appeal has been taken from the decision foreclosing your lien, has it not? A. No, sir.

Q. Well, notice has been served of one.

A. They have the regular ninety days in which to perfect an appeal.

Q. Well, notice has been served of an appeal.

A. Well, not to my knowledge. [464]

Q. An it was served prior to the time your bank bought it?

A. We know that they have the privilege of appealing that case.

Q. Don't you know that that notice was served on your bank prior to the time that your bank bought it, at the time that the foreclosure sale was on?

A. I can't say; I did not ask the lawyers about that.

Q. You bid in that stock for \$100,000, didn't you?

(Counsel for defendants objects as irrelevant, immaterial and incompetent.)

A. I think that was the price we paid.

Q. Were there any other bidders besides your bank? A. No.

Q. Did that cover the entire indebtedness of the Washington-Alaska Bank to your bank, as established by the decree of foreclosure.

(Counsel for defendants interposes the same objection.)



(Deposition of M. W. Peterson.)

A. No.

Q. This property you say is worth \$300,000 at this time?

A. Yes, we believe it to be worth about that.

Q. Yet you only bid \$100,000 on it when you had a claim being foreclosed and reduced to a judgment in a sum in excess of \$100,000?      A. Yes.

Q. You feel, then, that you have received on that sale property worth \$300,000.

A. Yes, we believe that—that is an interest in the property worth that much.

Q. Well, you have got a four-fifths interest in the property, [465] worth that much?

A. Yes, worth \$300,000.

Q. And therefore you have received property more in value than the amount of your judgment?

A. Yes.

Q. Do you still assert a claim against the bank for the deficiency between your judgment and the \$100,000?

(Counsel for defendants objects as irrelevant, immaterial and incompetent.)

A. Yes, sir, we do.

Q. Do you know anything about an option to purchase this property being given last summer?

A. No, sir.

Q. You do not know anything about that?

A. No.

Q. Or that the option was refused—you do not know anything about that?      A. No.

Q. I would like to have you just state altogether,

(Deposition of M. W. Peterson.)

Mr. Peterson, your reasons why this stock was not considered by you as good for security for an advancement in September, 1908, if it had had a firm basis of credit for \$375,000 on March 18, 1908.

Mr. McGINN.—That is objected to on the ground that it assumes something which has not been testified by the witness and that is that it did not have the same firm basis in September, 1908, as it had in March, 1908.

Q. (Mr. RIDER.) Then I will ask you if it did have the same firm basis of credit in September, 1908, that it had in March? [466]

A. I believe it had.

Q. Then, why did not you accept it as security?

A. Because we had loaned them all that they were entitled to receive on other securities, and this was simply piling up another loan on what we had already loaned them.

Q. Did you give them that reason?

A. I do not recall whether they did or not, but they should have known it.

Q. And that is the reason you give it now ?

A. We had loaned them all the money we thought we were entitled to loan any one person.

Q. And that is the reason now for not making any advancement.

A. I just told you what our reason was.

Q. And that is the reason that you now give?

A. Yes.

Mr. RIDER.—That is all.

(Deposition of M. W. Peterson.)

Redirect Examination.

Q. (Mr. McGINN.) You also stated that conditions were such at that time that you did not care to make the loan?

A. Yes. We were practically carrying all the gold-dust that they had purchased and at one time we had nearly a million dollars in transit to them against a million dollars of gold-dust coming out, and on the top of that they asked us for more money, and regardless of what the security was it is a question whether we would make them such a loan.

Q. Although you thought that Gold Bar was a firm basis of credit for \$375,000, yet under the conditions that existed at that time you did not feel that you wanted to make the [467] loan?

A. Yes. I think that both of you gentlemen do not understand me—you misunderstand me. We did not say that we would loan them \$375,000 in March, 1908. We told them as a basis of credit we would consider the collateral worth that much, but we never loan the full amount of what a thing is worth. If they turned in a lot of collateral to us we would have said the estimated value of Gold Bar stock was \$375,000; but our loans at that time were based on notes and other securities that they deposited with a trustee that we had in Fairbanks, Mr. R. H. Miller, and Miller kept us constantly advised of the quantity of security that he had on hand and we made the loans in accordance with it.

Q. This O. W. Brown do you know whether he was a timber cruiser?      A. I cannot recall him.

(Deposition of M. W. Peterson.)

Q. Do you know whether or not he is the man that made the cruise of this country for E. T. Barnette and Mr. Johanson prior to the time they purchased it?

A. I cannot recall anything about him, except that I have his name. I cannot recall anything concerning him.

(Deposition of witness closed.)

[Endorsed]: Received Clerk of the Court Office, Apr. 20, 1914, Fairbanks, Alaska. Filed in the District Court, Territory of Alaska, 4th Div. Apr. 20, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy. [468]

Mr. McGINN.—I desire to introduce in evidence that portion of the Articles of Incorporation of the Fairbanks Banking Company, a copy of which was filed for record with the clerk of the United States District Court, Third Division, of the District of Alaska, on March 24, 1909, which is as follows (Reads):

“That the purposes for which said corporation is formed are as follows: To carry on a general banking business wholly without the State of Nevada, and in connection therewith to discount bills, notes and other evidences of debt, receive and pay out deposits with and without interest, receive on special deposit money or bullion or foreign coin, stocks and other securities; to buy and sell foreign and domestic exchange, notes and other negotiable paper; to loan money on percentage, security and bonds, pledges of bonds or other negotiable securities; to take and

(Deposition of M. W. Peterson.)

receive security by mortgage or otherwise upon property, real and personal; to invest money for individuals or corporations; to buy and sell gold and silver bullion, foreign coin, stocks, bonds, and all other property, real and personal; and to do any business and exercise any powers incident to the banking business or necessary or proper to the furtherance and attainment of the purposes above set forth.” That is section 3.

Mr. McGINN.—We also desire to read from the statement that was filed with the clerk of the court upon March 24, 1909, as follows:

Mr. RIDER.—We object to reading from the statement, as the bank-books [469] are here and are the best evidence.

The COURT.—What is the purpose?

Mr. McGINN.—To show what we held out that the capital stock was. (Reads.) Under “resources”: “Treasury stock \$126,400.” Under “Liabilities”: “Capital stock \$300,000.” And from the statement filed by the bank in the office of the clerk of the District Court of the Territory of Alaska, Fourth Division, September 22, 1909, being a report required to be filed by statute—

Mr. RIDER.—The same objection as to that. (Overruled.)

Mr. McGINN.—(Reads.) “Amount of the capital stock of said corporation \$300,000. The amount of its capital stock actually paid in money is \$172,600.” Then from the statement of September 10, 1910— Referring again to the statement filed March

24, 1909, the "Amount of the capital stock of said corporation is \$300,000. The amount of its capital stock actually paid in money is \$173,600." Now, I read from the report of September 10, 1910, filed with the clerk on September 23, 1910 (Reads):

"The amount of capital stock of said corporation is \$300,000. The amount of its capital stock actually paid in in money is \$169,600." [470]

Trial Eighth Day.

April 30, 1914, 10 A. M.

Mr. McGINN.—I have not quite finished with Mr. Stewart, but Mr. Wood and Mr. Hill are working on the statement, so I will read the deposition of Mr. W. H. Parsons. (Reads deposition.) [471]

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**[Deposition of W. H. Parsons, for Defendants.]**

W. H. PARSONS, produced as a witness in behalf of defendants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. McGINN.) State your name.

A. W. H. Parsons.

Q. Where do you reside? A. Seattle.

Q. How long have you lived in Seattle?

A. About five years.

Q. Prior to residing in Seattle where did you live?

A. Fairbanks, Alaska.

Q. When did you go to Alaska or the Yukon Territory? A. To the Yukon Territory in 1898.

Q. Where did you go to? A. Dawson.

Q. How long did you live in Dawson?

A. About five years, I should say.

Q. And from Dawson where did you go?



(Deposition of W. H. Parsons.)

A. I came back to Seattle.

Q. And from Seattle?

A. To Fairbanks, Alaska.

Q. Did you engage in business in Fairbanks, Alaska?      A. I did.

Q. What business?      A. In the banking business.

Q. What was the name of the bank?

A. The Washington-Alaska Bank of Fairbanks.

Q. State whether or not you were one of the stockholders of that institution.      A. I was. [472]

Q. That is the Washington-Alaska Bank, incorporated under the laws of the State of Washington?

A. Of the State of Washington.

Q. Who were associated as stockholders with you in that bank?

A. Mr. Falcon Joslin, Mr. E. L. Webster, Mr. John Schram and the Washington Securities Company.

Q. You engaged in the banking business there?

A. General banking business.

Q. What time did you start that bank?

A. In the spring of 1905.

Q. What position did you occupy in the bank?

A. Manager.

Q. Were you vice-president?      A. No.

Q. Just manager?      A. Manager.

Q. How long did you continue to manage that bank?      A. Until the fall of 1909.

Q. And what happened then?

A. We sold the bank.

Q. To whom?

A. To the stockholders of the Fairbanks Banking Company.

(Deposition of W. H. Parsons.)

Q. Sold it to the corporation?

A. To the corporation.

Q. Who did you carry on your negotiations with in regard to the sale?

A. With E. T. Barnette and Mr. Dusenbury, I think principally.

Q. I will ask you to state whether or not before the Fairbanks Banking Company purchased the Washington-Alaska Bank of [473] Washington, Captain Barnette and Mr. Dusenbury went over the loans and discounts and resources and liabilities of the bank.     A. They did.

Q. How long a period did your negotiations cover?

A. I should say fully three weeks, probably longer, I cannot recall now.

Q. I will ask you to state whether or not they made a careful scrutiny of the loans and discounts of the bank?     A. They certainly did.

Q. How long have you known Captain Barnette?

A. During the time that I lived in Fairbanks.

Q. And he had been engaged in the banking business during all that time himself?     A. He had.

Q. How long had you known Mr. Dusenbury?

A. I should say approximately the same length of time.

Q. He had also been engaged in the banking business?     A. Yes.

Q. In the employ of the Fairbanks Banking Company?     A. Yes, sir.

Q. I will ask you to state if you know whether Captain Barnette was familiar with the standing and

(Deposition of W. H. Parsons.)

credit of the people in that community and the mining ground?

A. He was certainly supposed to be; he was in the banking business and also a large operator I believe, as well.

Q. For what amount did you sell the Washington-Alaska Bank of Washington to the Fairbanks Banking Company? A. \$250,000. [474]

Q. I will ask you to state whether or not in your opinion that was a fair value for the stock of the Washington-Alaska Bank of Washington?

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent.

A. Yes, sir, I certainly do think it was the fair value.

Q. (Mr. McGINN.) What do you base that estimate on?

A. Well, on the book value of the institution, as well as the earning power.

Q. Do you remember about what the book value of the Washington-Alaska Bank was at the time of the sale to the Fairbanks Banking Company?

A. Something over \$200,000, if I remember correctly.

Q. Something like \$206,000?

A. In that neighborhood, yes.

Q. I will ask you to state whether or not in the book value you included the accrued interest on loans? A. No, we did not.

Q. What was the amount of the accrued interest?

A. We did not take into consideration the accrued

(Deposition of W. H. Parsons.)

interest unless the accrued interest had been paid.

Q. What was the amount of the accrued interest that was unpaid at the time you sold the Washington-Alaska Bank to the Fairbanks Banking Company?

A. I think it figured up something in the neighborhood of \$20,000.

Q. What was the amount of the paid up capital stock?     A. \$150,000.

Q. The surplus and undivided profits amounted to in the neighborhood of \$56,000.     [475]

A. As shown by the books.

Q. According to the books?     A. Yes.

Q. And in addition to that you say there was about \$20,000 of accrued interest that was not included.

A. Yes, as I remember it.

Q. In the book value?

A. It did not appear in our books, but the bank had earned that amount of additional interest.

Q. I will show you a statement which I will ask to be marked as exhibit No. 3 for the purpose of identification and which purports to be a statement of the condition of the Washington-Alaska Bank as of date September 13, 1909, and I will ask you to examine the same and to state, in your opinion, whether that states about what the condition of the bank was at that time. (Showing document to witness.)

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent and a mere guess on the part of the witness.

(Deposition of W. H. Parsons.)

A. To undertake to pass an opinion on the various items here would be impracticable and I could not do it. Taking the totals in general, they would occur to me as being approximately correct.

Q. (Mr. McGINN.) In this statement you were carrying securities to the amount of \$59,875.

A. Yes, sir.

Q. What stock did that include?

A. I should regard that item as including the stock of the First National Bank.

Q. That is, half the stock? [476]

A. I could not say, but it would include the stock of the First National Bank.

Q. That was owned by the Washington-Alaska Bank?

A. By the Washington-Alaska Bank, yes—I do not know whether it was half or not.

Q. You also have an item here of building and real estate on which is placed the valuation of \$17,536.23; what did that include?

A. That included the realty, the building, the bank building, the furniture and fixtures, the vaults and so forth.

Q. Where was that situated?

A. That was situated on the corner of Second and Cushman streets.

Q. You have stated that you have lived in Fairbanks five years. A. Yes, sir.

Q. And you have a pretty good idea of the value of town property in Fairbanks? A. Yes, sir.

Q. And particularly in the neighborhood of the

(Deposition of W. H. Parsons.)

Washington-Alaska Bank?      A. Yes, sir.

Q. I will ask you to state whether or not, in your opinion that was a reasonable estimate as to the value of that property?

A. We regarded it so when we bought the property and built the building.

Q. State whether or not it cost you, as a matter of fact, more than that.

(Counsel for plaintiff objects as irrelevant, [477] immaterial and incompetent.)

A. Yes, sir, it did.

Q. Do you remember about what the amount of your deposits was at that time?

A. To which time do you refer?

Q. At the time of the sale to the Fairbanks Banking Company.

A. If I recall correctly, somewhere in the neighborhood of \$1,900,000; it may have been a little more or a little less—somewhere in that neighborhood.

Q. Do you remember about what the amount of your loans and discounts was?

A. A little less than \$300,000, if I remember correctly.

Q. About what per cent of cash did you have on hand?

A. Do you mean cash or do you mean reserve—cash and exchange?

Q. Cash and exchange.

A. We had, at the time we sold, in excess of ninety per cent of cash and exchange.

Q. What do you mean by cash and exchange?



(Deposition of W. H. Parsons.)

A. I mean cash in our vaults and cash in other banks on the outside with our correspondents.

Q. What had been the earning capacity of that bank from the time of its organization in 1905 up to the time of the sale, each year, approximately?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. Oh, I think our average earning power was somewhere in the neighborhood of \$50,000 a year.

Q. This statement shows that upon the 13th day of September 1909, that the loans and discounts amounted to the sum [478] of \$258,545.35, that is about correct?

A. That is taken from the books at that time?

Q. At that time. A. Then it must be correct.

Q. And what would those loans and discounts consist of?

A. Loans and discounts consist of loans and discounts.

Q. I know, but what was the nature of the loans?

A. To sundry and various people, merchants, miners and professional men.

Q. Such as the bank generally keeps? A. Yes.

Q. It is charged in the complaint in this case that at the time of the sale of the Washington-Alaska Bank of Alaska to the Fairbanks Banking Company, that there was in the neighborhood of \$70,040.10 of loans past due and which were and still are without any substantial value, a list of which I have in my possession and concerning which I am going to interrogate you. Now there is a loan of \$125 to O. M.

(Deposition of W. H. Parsons.)

Anderson et al—

A. Pardon me for interrupting you, but do you intend to interrogate me upon all of the names which would compose this \$75,000 of notes that were not paid?

Q. Yes.

A. Well, I will answer it to the best of my ability.

Q. That is all we expect. There is a loan of \$125 to O. M. Anderson et al.—that is O. M. Anderson and W. M. Anderson.

A. That is Oscar Anderson and W. M. Anderson the druggist?

Q. Yes. A. I remember that. [479]

Q. I will ask you to state whether that loan was good. A. At the time we sold?

Q. Yes.

A. We regarded it as absolutely good. They were druggists; they had a nice little stock of, I should say, about five or six thousand dollars, and stood well in the community and I should think they would be good for that amount of money.

Q. The next item is Colosimo, Christian, et al., which was due June 1, 1909, in the sum of \$6,223.75; how about that loan on the 13th day of September, 1909? A. Colosimo, Christian?

Q. Yes.

A. It would possibly be better to pass over that name temporarily and interrogate me on some others in the meantime.

Q. This is Colosimo, Christian, et al.—I think Christian was running a bootblack stand.

(Deposition of W. H. Parsons.)

A. Oh, yes, I remember them now. They were Italians?

Q. Yes. A. Yes, that was a secured loan.

Q. Secured how?

A. Secured on their property and on their plant.

Q. On what property, do you know?

A. If I remember, they had a claim on a tributary of Vault that they were working on.

Q. That was a mining claim, was it?

A. Yes, sir, a mining claim.

Q. And you had a mortgage on the mining claim?

A. We had a mortgage upon the mining claim and upon their [480] plants.

Q. Do you know what plant it was?

A. Well, I cannot recall now, but it was an adequate plant to operate their mine, probably a very substantial plant, if we loaned them that amount of money.

Q. Before lending money upon a mining claim what investigation did you make to determine the probable value of it?

A. Why, we always had employed by the bank men who were very conversant with prospecting and passing judgment upon mining claims. They were constantly in the employ of the bank. If there was an application for a loan and the ground was opened up we sent this expert out to go over it and pass upon the property.

Q. I will ask you to state whether or not on the 13th day of September, 1909, you felt that that was a good loan? A. Unquestionably we did.

(Deposition of W. H. Parsons.)

Q. It was due June 1, 1909, do you know why it was not collected at that time?

A. No, it would be impossible for me to tell you now. But, no doubt, there was some good and sufficient reason. They may have been troubled with water; they may not have been able to have operated in order to get the dumps out to wash them out—that very frequently occurs.

Q. Do you know what ever became of that plant?

A. No, I do not.

Q. The next item is Alex Erickson, due May 29, 1909, for \$16; do you remember that? A. No.

Q. The next item is Erickson & Company due May 7, 1909, for \$408; do you know anything about that? [481] A. That is Axel Erickson?

Q. Yes.

A. That used to be Erickson & Bostrom.

Q. No, I think there is another item down here later of Bostrom & Erickson.

A. I remember Bostrom & Erickson.

Q. You do not recall just now this particular item.

A. No, I don't know which Erickson that would be.

Q. The next item is Johnson, Cord et al. June 9, 1909, in the sum of \$310.

A. I don't remember Johnson & Cord—isn't that Gord?

Mr. RIDER.—I have it G-o-r-d in my list.

A. No, I don't remember.

Q. (Mr. McGINN.) The next item is Kellett & Monhman due May 24, 1909, in the sum of \$906.30, and there is also another item of Maddicks, Monhman

(Deposition of W. H. Parsons.)

& K., June 1, 1908, in the sum of \$648.99—how about those loans?

A. That is Maddicks, Monhman & Kellett.

Q. Yes.

A. They were always regarded by us as being first-class miners and splendid bank risks. We have loaned them in the past, I think the records will bear me out, as high as \$30,000 in their operations. Among other properties, they had a valuable lay on Cleary, Six Below I think was the property of Judge Kellogg, and they made a great deal of money out of that, and I know our substantial advances to them was on the basis of that property. We had a mortgage on their lease and also on their plants.

Q. Was the mortgage sufficient to cover these items? [482] A. I should say so.

Q. I mean the property that was included in the mortgage.

A. Yes, sir, I think that that claim produced over \$600,000, and they had a forty per cent lay.

Q. State whether or not at this particular time there was still a dump on that property which was not washed up.

A. I rather think that there was. I know that they had a dump there that they found a great deal of difficulty in washing, and they could not get the water—the water was taken from above them, and there was quite a little dump which was left there at the bottom, which is always supposed to be very good, and I rather think that if there was any amounts not paid up at that time, that that was the cause of it,

(Deposition of W. H. Parsons.)

that they had not washed their dump out. I am speaking now as nearly as I can remember from thinking back five years.

Q. The next item is T. R. Kovaich for the sum of \$829.50; do you remember that loan, Mr. Parsons?

A. What is the initials?

Q. T. R.      A. Is that Tom Kovaich?

Q. Yes.

A. Tom Kovaich is a miner on Lower Gold Stream; he had a fraction that laid aside of L. L. James' ground, Seventeen Below on Gold Stream. That was examined by our experts. He had the ground opened up and if I remember correctly I think that you will find that that was also secured.

Q. By a mortgage?

A. I think so. But I know that it was passed upon by one of our men. [483]

Q. That note was due July 24, 1909; do you remember why it was not collected at that time?

A. No, I do not. I cannot state.

Q. Do you know whether or not that property got into litigation after this loan?

A. Let me see. Was there not an overlapping there, or a contention on the hillside claims there? I can just recall something of that kind; I cannot recollect what it was, but there was some litigation down there. I will tell you what it was, come to think of it—it was the original staking and group staking over it—somebody went in and staked under an association claim over it—*that* came over and took a part of the bench. I remember now there was some



(Deposition of W. H. Parsons.)

litigation—whether the delay in payment was attributable to that I can't say, but there was some litigation.

Q. Do you know whether or not that litigation was settled?     A. No, I do not.

Q. There is a note of John Lappi et al., due June 1, 1909, in the sum of \$957.76; what do you know in regard to that?

A. John Lappi is a Swede with three partners, they operated a claim on lower Fairbanks creek. There were four of them, big, husky fellows, good miners, and the records will show that from time to time we have loaned them up probably as high as \$2,500. They had their own plant; they used to go out into the woods and cut their own wood, so that they did not have to buy that. They operated cheaply and they always made a little money. Their habit was to take out the winter dump and sluice it in the spring. They were not large operators. [484]

Q. Was that secured?

A. That was secured by their plant, as I remember, and whatever other chattels they may have had. I do not think they owned their ground; I think they had a lay there.

Q. Do you know why that note was not collected when it became due on June 1, 1909?

A. No, I cannot see the reason for it. There was evidently some good and sufficient reason if it was not paid.

Q. Most of those loans were made during the winter months?

(Deposition of W. H. Parsons.)

A. Yes, sir, during the winter months; that was the time when they needed assistance.

Q. And how did you fix the time the note became due?

A. Usually for the cleanup; that would be along about June or July 1st.

Q. And conditions might arise which would prevent them paying then.

A. There were instances where there would be a lack of water, or the water in some of the creeks had to be divided up; certain parties of miners would take it a certain month or a certain part of the season and then others would take it, and for sundry and various reasons they were carried over many times into the fall and sometimes into the following year before they were able to pay.

Q. State whether or not it was customary among the banks in Fairbanks at that time to hold paper overdue without having it renewed.

A. In some instances, yes.

Q. Why didn't you have the paper renewed in these particular cases I have enumerated? [485]

A. In many instances the notes were secured notes, either secured by a chattel or real mortgage, and in that instance we obviously would prefer to continue the old notes rather than to take new notes.

Q. Why?

A. Well, in that country during the interim of taking the new note, the mortgage would describe a specific note due at a specified time; now if we were to take a new note and for any reason there should

(Deposition of W. H. Parsons.)

be a transfer, that there should be a change in the records as regards the ownership of the property during that interim, it is just barely possible that there might be some change like that, and that would necessitate an abstract and looking it up, which was always expensive. We preferred to retain our original note. Then again, many times, a renewal of a note was not made because there would be an endorser and the endorser would be outside or he might be in the Iditarod or some other district.

Q. Did you consider the note of Lappi and those people for \$957.76, due on the 1st of June, 1909, as a good note on the 13th of September, 1909?

A. Yes, sir, we did, we surely did. I remember Mr. Lappi personally very well.

Q. The next item is H. I. Miller, a demand note, February 28, 1909, in the sum of \$1,546; what about that?

A. H. I. Miller was engaged in the stock business. He would go outside and buy a bunch of cattle and take them in and sell them; sell them to the miners, and he also did wholesale butcher business there. It was quite customary with us to loan Miller from time to time certain amounts, [486] in fact largely, probably up to \$2,500.

Q. He always paid?

A. Yes, sir, he always paid. I knew him also in the Dawson country. He was in the beef business there; I knew him for a number of years and he always went by the name of "Cow Miller" and he was very well regarded in that country, as well as

(Deposition of W. H. Parsons.)

the upper country. I knew that he always had a good credit with the Bank of British North America before he came down there.

Q. Did you consider he was a good risk?

A. Yes, sir, morally an A-1 risk.

Q. And did you consider his note perfectly good on September 13th?

A. It seems to me they ought to be able to collect that note against Miller to-day if they could locate him—he has property in Seattle, or he did have.

Q. The next item is a note of R. R. Myers in the sum of \$156.68 due August 26, 1909, what do you know about that?

A. Well, Dr. Myers is a dentist of Fairbanks and he always stood very high indeed, a very estimable fellow, and a man with a substantial practice. I should regard a loan of \$150 as being perfectly safe with him.

Q. He was a man of considerable earning capacity?

A. Yes, sir, at that time he had a very large practice.

Q. The next item is a note of M. Pamusianal et al., due June 9, 1909, in the sum of \$1,526.43, what have you to say about that?

A. I cannot remember that name, possibly if you had some of the other names I might locate it.  
[487]

Q. We will pass that—the next item is Seebe & Myers, due August 24, 1909, in the sum of \$4,658.49, what do you know about that?

(Deposition of W. H. Parsons.)

A. Harry Seebe and Dr. Myers?

Q. Yes.

A. Harry Seebe did business almost from the first day that our bank opened, with us. I think he had as high as fifteen and eighteen thousand dollars to his credit in our books—a very conservative careful worker. He went into a mining proposition on Little Eldorado in conjunction with Dr. Myers, and they put on a very nice plant and had the ground well opened up. We had that well examined by our man and he passed favorably upon it. We made the loan to Myers & Seebe and regarded it as a splendidly good loan at that time. They were very slow in getting that ground opened up. It was awful deep, and there was a slide came down, I remember, and cut the pay off from them, and I know that for a long time there they had a great deal of difficulty in locating it, because of this slide.

Q. Seebe stood well in the community?

A. Oh, yes, very well.

Q. A good moral risk also?      A. Splendid.

Q. In lending money there, what things did you generally take into consideration?

A. How's that?

Q. What things did you generally take into consideration in lending money?

A. Well, it is pretty hard to tell just exactly what you [488] would base your opinion upon in lending money. Certainly it would be your security and the moral risk, as you knew the party, and general sizing up of the situation, as to the enterprise they

(Deposition of W. H. Parsons.)

were going into and how you regarded their ability to succeed in that particular enterprise. Certainly you would want to know that the moral risk was pretty good even though you had the security.

Q. I suppose you would lend large sums of money up there to men without any security at all?

A. Oh, absolutely.

Q. You loaned money to men who really had nothing?

Mr. RIDER.—That is objected to as irrelevant and immaterial.

A. I would not put it just like that.

Q. (Mr. McGINN.) Well, I mean a man who had no tangible property, which would be subject to execution.

A. Very many times, for instance, there would be a man if we knew he was a sober, industrious, hard-working fellow and that he had a position or a claim that he was getting five or six or seven dollars a day and temporarily he needed a little assistance, or had a good job, his earning capacity was certainly the basis for a certain amount of credit.

Q. The next item is Smith, Lord & Hickman, a note due May 15, 1909, in the sum of \$1,209.36.

A. George Smith?

Q. Yes.

A. Well, that loan you will find is secured by their property, I think it is on the right limit of Esther Creek—no, I guess it was the left limit—however I would not be positive as to that. It was secured by property of [489] Mr. George Smith and Fisher.



(Deposition of W. H. Parsons.)

Q. This is not Smith and Fisher?      A. Isn't it?

Q. This is Smith, Lord & Hickman?

A. Well, that would be a little different. George Smith would own the property in this instance and the firm of Hickman, Smith & Lord took a lease upon it—he took a lease with them on his own property—that was it. The basis of the value of that loan would be very largely attributable to Mr. Smith, who owned the property and who was regarded as being very well to do at that time.

Q. You considered that loan absolutely good on the 13th day of September, 1909?

A. Yes, sir, we did.

Q. George Smith has taken out considerable money up there since, didn't he?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.)

A. No, I don't know that he did.

Q. On Eva Creek?

A. No, I don't know that. He had property in there, but I didn't know that.

Q. The next item is Mrs. J. A. Williams, note due October 3, 1909, in the sum of \$104, what do you know about that?

A. Well, that is J. A. Williams, that used to be in Dawson; his wife—I imagine that is J. A. Williams—was that a secured loan?

Q. I don't know. I will not bother with it because it was subsequent to September 13, 1909. The next item is J. A. Williams dated May 24, 1907, in the sum of \$3,307.83? [490]

(Deposition of W. H. Parsons.)

A. Yes, sir, I remember J. A. Williams very well indeed. J. A. Williams was formerly from Dawson. He was one of the large stockholders in the Dawson Electric Light Plant and he came to Fairbanks after having sold his interest out there, and I know he had \$40,000 when he came to Fairbanks. When he arrived there he opened an account with our bank and I knew him in Dawson, and he went out on Dome Creek and purchased a lay there. That loan was made after he had invested, I should say, twenty or twenty-five thousand dollars of his money in opening the ground up and putting it in shape and putting wood on it, and putting plants on it and so forth. After having invested that twenty or twenty-five thousand dollars we made him from time to time certain advances, I do not remember what the total is, but you will find that that is also secured by his dumps, by his plants and I think seven or eight hundred cords of wood that he had on the place at that time. I think the records will show that.

Q. The next item is F. B. Walker due May 11, 1909, for the sum of \$1,000.

A. Yes, I remember Mr. Walker; I think you will find that that was also secured.

Q. Secured by what?

A. By his machinery; he had a lay on one of the creeks—he also owned some property down on the Chattineka, but as well as that he was working another lay—he had two different plants and I think our security covered both of them.

Q. Did you think the security was ample for the

(Deposition of W. H. Parsons.)

amount? A. We so regarded it. [491]

Q. You considered that loan was absolutely good on the 13th day of September, 1909?

A. We did.

Q. The next item is T. E. Wooldridge, due July 23, 1909, in the sum of \$19, did you consider that note good?

A. I should say that Wooldridge ought to be good for \$19. Is he still living there?

Q. Still living there?

A. Why can't they collect that? I should think he would be good for \$19.

Q. The next item is W. M. Anderson, due May 29, 1909, in the sum of \$525—I guess that is Walter Anderson. A. What is the amount?

Q. \$525.

A. Is that one of the Andersons, the druggists?

Q. What you have already said in regard to Walter Anderson will apply to that.

A. If that is the same Anderson.

Q. Yes, that is the same. A. Yes.

Q. Then there is Bostrom & Erickson, due May 12, 1909, in the sum of \$2,925.92.

A. That was secured by their ground; they owned either Number One or Two Above on Fairbanks Creek, and on the two plants. They took out a great deal of money, and we have loaned them away, away in excess of that amount—I think we loaned Bostrom & Erickson up as high as \$10,000.

Q. And they always paid?

A. They always paid.

(Deposition of W. H. Parsons.)

Q. And you considered it good risk? [492]

A. Yes, sir.

Q. And you considered that loan was good upon the 13th day of September, 1909? A. Yes, sir.

Q. The next item is T. Jestland, due July 1, 1909, in the sum of \$600.

A. Jestland was a merchant down on Little Eldorado; he had a little store down there.

Q. What kind of a store?

A. A general store, as I remember.

Q. Merchandise? A. Yes.

Q. Do you know whether that was secured or not?

A. I am not positive; I could not state positively.

Q. He had done business with you right along?

A. Yes.

Q. You considered that loan as absolutely good?

A. Yes.

Q. That is, I mean on September 13, 1909?

A. Yes, sir.

Q. The next item is Perrault & Rader, due June 4, 1909, in the sum of \$2,080.

A. That was a loan—that was made to Perrault & Rader—they were operators on Little Eldorado, and that was all secured by their plant, and their ground.

Q. They were both considered pretty good men?

A. Both splendid honest fellows and good workers.

Q. You considered that loan was good?

A. I did.

Q. At the time you sold to the Fairbanks Banking

(Deposition of W. H. Parsons.)

Company? [493] A. Yes.

Q. The next item is Al Morensy dated October 4, 1909, in the sum of \$2,886.82.

A. Al Morensy is a man that owns a lot of very valuable property. Al Morensy is a man—we have loaned him money—I don't know the amount that is there now, but he was a well-known character and had a lot of valuable property there.

Q. He had some valuable property in Fairbanks?

A. Yes, sir, some of the very best.

Q. He was considered absolutely good for that amount? A. Why should I so regard him?

Q. I mean at the time you sold to the Fairbanks Banking Company. A. Yes, sir.

Q. Then there is the item of Auten & Frich due September 13, 1909, in the sum of \$500.

A. I don't remember them.

Q. Don't you remember that George Auten and Frich were engaged in the saloon business there?

A. Oh, yes. I was thinking of miners—yes, I remember them—they were saloon-keepers.

Q. Do you know whether that was secured?

A. Yes, sir. I think that was—I think you will find that they had secured us by warehouse receipt on whisky in the Government warehouse of the United States.

Q. You held the certificates in your possession?

A. Yes, sir.

Q. You held the certificates of transfer, assigned to you as security? [494] A. Yes.

Q. And the security was ample to cover that

(Deposition of W. H. Parsons.)

amount?      A. We so regarded it.

Q. Well, whisky has a staple value.

A. A positive value, yes, and there was sufficient of it to make the collateral good.

Q. The next item is W. Sam Clark et al., in the sum of \$5,668.30, due May 15, 1908.

A. That was a loan that was made to the Clark brothers over both of their signatures, and was secured by their property on the right limit of Esther Creek. The loan was passed after our men had made the examination, after the men had got their holes down. They had located the pay above and below on the right limit, but they had a great deal of trouble in operating there because of the water. It was all underlaid there with springs and they had a great deal of difficulty in draining that off, but it was very rich ground; and I know positively at that time that the boys were offered \$20,000 for their claim.

Q. Do you know when that offer was made?

A. Well, that was within a year of the time that we sold—a year prior to that time.

Q. You considered that loan was absolutely good?

A. Yes indeed.

Q. With the security?      A. Yes, it was.

Q. The next item is Wiseman & Barclay, due May 30, 1909, in the sum of \$1,543.57.

A. Frank Wiseman, he was assistant United States marshal, I believe. [495]

Q. Deputy marshal.

A. Deputy marshal. He had earned in the neighborhood of three or four thousand dollars; I



(Deposition of W. H. Parsons.)

think he had that on deposit with us, and went into a mining venture on a tributary of Vault, and they invested this amount of money into the plant, and in opening up and buying his wood and so forth, and we loaned him this amount of money to complete the purchase price of his machinery and so forth, and I think you will find that we had a mortgage covering it.

Q. And the mortgage was upon property of sufficient value to pay the amount of the loan?

A. We considered it full.

Q. You considered that loan good on the 13th day of September, 1909?      A. We did.

Q. The next item is F. B. Walker and C. G. Walker, due June 11, 1909, in the sum of \$878.75.

A. That is the same Frank Walker and his brother that was on the other plant they were operating.

Q. Do you know where this plant was located?

A. That was on the Chattineka.

Q. A mining plant?      A. Yes, sir.

Q. Consisting of a boiler and hoist?

A. A boiler and hoist and so forth.

Q. Did you consider that of value sufficient to secure the loan?

A. Yes, sir, it probably cost four or five times that.

Q. Do you know whatever became of that plant? [496]      A. No.

Q. Do you think you could have collected that note if you had remained in there?

(Counsel for plaintiff objects as irrelevant, im-

(Deposition of W. H. Parsons.)

material and incompetent.)

A. It would certainly look reasonable to expect that I could.

Q. Now, there is an item of Garvin, Andy, due June 2, 1909, in the sum of \$111.97, and another of Garvin, Simonson and others due June 1, 1909, in the sum of \$6,717.34; how about that?

A. I remember that loan very distinctly. There was an association claim down on the Chattineka and Garvin was a part owner of this association claim. The boys had several thousand dollars to their credit and they bought a plant from the Northern Commercial Company; I think they paid in the neighborhood of \$12,000 for the plant; they also bought, with their own money, a lot of wood and put it on the property. We took a mortgage upon the plant and upon the wood and upon the mine itself to secure that note, and we also had our expert go out and examine that ground before we made the loan.

Q. Did you consider that absolutely good on the 13th day of September, 1909?

A. We certainly did.

Q. The next item is William Himes due June 1, 1909, in the sum of \$126.90.

A. William Himes was a freighter; he also had a piece of mining property on Fairbanks Creek, but he depended very largely upon the freight he hauled; he made that his [497] business, between the creeks and Fairbanks. He had two or three teams and was a very responsible fellow and a very

(Deposition of W. H. Parsons.)

skilful fellow. I cannot remember the particulars now in regard to that loan, but I know the man.

Q. You considered him worth \$126.90?

A. I certainly did.

Q. You considered him good for that at any time?

A. I should say so.

Q. The next item is James Kelly, due June 1, 1909, in the sum of \$4,928.24.

A. That was a loan that was also secured by mining property—the lease and mining machinery.

Q. And did you think the property was of sufficient value to secure the loan?

A. We certainly did or we would not have made the loan.

Q. The next item is A. H. McNeer, dated June 5, 1909, in the sum of \$726.56. A. Who?

Q. A. H. McNeer—Arthur McNeer.

A. He was the wood man. I think you will find that loan was secured by cordwood.

Q. Do you know how many cords?

A. I could not tell you now; but the way that loan was made it was secured by cordwood.

Q. Ample security? A. Yes, it was at the time.

Q. And the security was in existence on the 13th day of September, 1909?

A. I presume that it was. We had a mortgage covering it.

Q. The note was due January 5, 1909—do you know why it was [498] not collected at that time?

A. No, I cannot tell you why, but probably he was unable to deliver this wood. He would sell it to the

(Deposition of W. H. Parsons.)

creeks, you know, and have to take it out there, and probably he could not deliver it at that time on account of the roads or something.

Q. Then there is Peterson—Nels Peterson, administrator, that was due May 24, 1909, in the sum of \$2,943.25.

A. That is Nels Peterson, administrator?

Q. Yes.

A. Well, Nels Peterson and his partner had borrowed at various times from the bank sums of money up to four or five thousand dollars. His partner died and Nels was named administrator and handled the property for the estate, and in making this loan that bore the signatures of Nels Peterson, and as administrator, and was secured by the plants and the mining property.

Q. You considered that loan good on the 13th day of September, 1909?

A. I regarded it so at that time. He was administrator for his partner.

Q. Adolph Rippa, due June 1, 1909, in the sum of \$3,766.66.

A. Adolph Rippa was a miner on Fairbanks Creek. He was regarded as one of the best miners and one of the best moral risks in the camp. He was a good miner and had made considerable money mining. We have loaned him up as high as \$15,000.

Q. You considered him good on the 13th day of September, 1909?

A. We considered him at that time as A-1.

Q. The next item is Smith & Fisher, dated May

(Deposition of W. H. Parsons.)

18, 1909, in the [499] sum of \$940.

A. Is that George Smith?

Q. George Smith.

A. Well, that would be loaned on the strength of George Smith's signature.

Q. And on the property that George Smith had on Esther Creek? A. Yes, on Esther Creek.

Q. J. F. Struthers, due August 16, 1909, in the sum of \$208.

A. Well, that loan I remember distinctly, because there was an assignment of a premium or of a dividend from a life insurance policy; that was assigned to us and sent outside for collection.

Q. Was the dividend sufficient to cover that?

A. Yes, the dividend was in excess of the amount he owed us. That ought to be easily checked up through the collection department. It is very peculiar that that has not paid itself there. I have lost track of the item, but I remember it distinctly because I made the loan to him and took the assignment of the policy myself. As a matter of fact, Struthers is living right here now; you can get the full particulars of that.

Q. Struthers is worth that amount today?

A. He is running a mill down here at Orillia, saw-mill.

Q. The next item is the Tanana Trading Company, due June 1, 1908, in the sum of \$2,175.82.

A. The Tanana Trading Company was a company operating a general merchandise store at Chena, Alaska. We gave them a line of credit on, up I

(Deposition of W. H. Parsons.)

should say to ten or fifteen thousand dollars, as I remember it. [500]

Q. They were always considered good?

A. We so regarded them. They had a good credit and did a nice business there.

Q. The next item is J. A. Williams, due May 1, 1909, for the sum of \$150, which I think was secured by a ring; do you recall that? A. No, I do not.

Q. Now, at this time you carried those loans that I have mentioned upon the books of the bank as an asset. A. We did.

Q. And you so regarded them? A. Yes, sir.

Q. What was your custom in regard to wiping out a bad debt?

A. Usually once a year, on the first of January, if there was any paper that we had in our files that we did not regard as being good, that would be the time we would charge it off.

Cross-examination.

Q. (Mr. RIDER.) How long had you been connected with the Washington-Alaska Bank prior to the time that it sold to the Fairbanks Banking Company?

A. From 1905, in April, until we sold, September, 1909.

Q. A little over five years? A. Yes.

Q. It had been your custom each year on January 1st to charge off certain bad notes?

A. If we so felt that there was any paper to be charged off.

Q. Do you remember whether you felt that way



(Deposition of W. H. Parsons.)

at any time or not? [501]

A. Yes, sir, and we charged it off.

Q. Do you remember whether you charged off any on the first day of January, 1909?

A. I cannot recall.

Q. Do you remember whether you charged off any on the first day of January, 1908?

A. I don't think there was a year went by that we did not charge something off.

Q. You think every year you charged some off?

A. Yes, I think so.

Q. Then, by the middle of September, 1909, there were, in all probability there would have been some accumulations of bad notes which would be charged off on the succeeding January, would there not?

A. If we so regarded the paper we would charge it off.

Q. In the ordinary course of business you found each year that there was some bad paper, didn't you?

A. I think almost without exception every year.

Q. So that it would be reasonable to suppose that there would be some bad paper in the bank on September 13, 1909?

A. Well, we would not suppose it—if we found it we would charge it off at that time.

Q. Had there been any difference in the management of the bank during the year 1909 than any other year, respecting the making of loans?

A. No.

Q. Who supervised the making of the loans?

(Deposition of W. H. Parsons.)

A. I did very largely.

Q. You passed on the securities? [502]

A. Usually. Mr. Barbour, the cashier, also had the same authority. He usually passed upon them also—they were passed upon by myself and him jointly, or separately, as the case may be.

Q. Now, you stated that the loan to W. M. Anderson for \$125 was a perfectly good loan?

A. I so regarded it at that time.

Q. Why was it that you did not collect that perfectly good loan and that it had not been collected up to the time that you sold, and you allowed it to become past due for over two years?

A. There would be probably some good and sufficient reason for not having collected it.

Q. Can you give me the good and sufficient reason?

A. I cannot at this moment give you the reason.

Q. You are just guessing that there was a reason because you did not collect it.

A. It may have been there was an endorser upon that note, or it may be that the interest had been kept up and we carried it that way for a matter of convenience.

Q. And it may be that it was not collectible?

A. How?

Q. I say it may be that it was not collectible.

A. There is always a question of doubt about paper.

Q. After it becomes past due.

A. Not necessarily, but I always considered that

(Deposition of W. H. Parsons.)

it makes no difference in the value of paper because it becomes past due.

Q. It is just as good?

A. Absolutely, in instances. [503]

Q. As a banker, would you take any paper that is past due the same as paper that is not past due?

A. We have paper that is past due in our office to-day.

Q. Would you accept it as a purchaser just as readily as paper that was not past due?

A. For rediscount we would not take it at all, but many times from the customers, for convenience sake, we would take a note that was past due.

Q. Do you think that if you were purchasing a note that you would purchase a past due note as readily as you would one that was not past due?

A. No, sir, not in rediscounting I would not purchase the note, but a note that was made in the first instance with us for a consideration—there may be sundry and various reasons why we would carry that past due note and be perfectly satisfied with it.

Q. But you would not consider it a marketable note, would you, from the standpoint of a purchaser?

A. Well, if it bore any indorsements I would say that it would be just as good.

Q. You think it is just as marketable as if it was not past due?

A. I should think, in a general way, yes, if it was a secured note.

Q. And as a purchaser you would take it just as readily as one which was not past due?

(Deposition of W. H. Parsons.)

A. Possibly not as readily.

Q. You would not take it at all, would you, Mr. Parsons?     A. As a purchaser?

Q. Yes.     [504]     A. Oh, I might.

Q. You might?     A. Yes.

Q. You would, as a purchaser, just as readily take \$70,000 of paper that was past due?

A. It would depend upon the class of paper, and it would depend upon whether the paper was secured or not.

Q. You know, from your experience as a banker, that past due paper is considered as dishonored paper by a purchaser, is it not?     A. No, sir.

Q. Not considered so in banking circles?

A. No, sir, not necessarily so.

Q. By a purchaser, I am speaking of—not by the owner who holds it, but by a purchaser.

A. Not necessarily; not where it is part of a going business.

Q. Where the note is part of a going business, you mean?

A. No; where the note is a part, as a unit of the whole business.

Q. Do not purchasers of bank stock generally require that past due paper be charged off, or be held by the bank?     A. A purchaser of bank stock?

Q. Well, yes.     A. No, not necessarily so.

Q. If you were purchasing the entire stock of a bank, would you not, as a banker, require that the owners of that stock retain this past due paper, or else charge it off?     A. Not necessarily.

(Deposition of W. H. Parsons.)

Q. Well, what do you mean by "not necessarily."

A. Why, because I am answering your question perfect there. I mean [505] that I would not say so because—I will give you an instance. When the Washington Trust Company and the Dexter-Horton Bank unified there was paper in the Dexter-Horton Bank and there was paper in the Washington Trust Company that was past due, but it was good paper and it was acceptable.

Q. They were practically the one bank before they unified.

A. In no sense of the word. They were separate corporations entirely.

Q. Owned by separate stockholders?

A. Separate stockholders.

Q. And which purchased the other?

A. It was a unification.

Q. The same stockholders combined, did they?

A. The same stockholders combined.

Q. And the same stockholders held the stock in the new bank?      A. Yes.

Q. It was not, then, any stranger coming into the bank?

A. Well, there were two interests that came together.

Q. But there was no stranger came into the bank?

A. There was a complete examination of the assets of both banks by the opposite institution.

Q. There was no stranger coming into the bank?

A. What do you mean by "stranger"?

Q. One who had not formerly been a stockholder.

(Deposition of W. H. Parsons.)

A. Well, it was the unification, and it would naturally be the stockholders of the two institutions coming together.

Q. But if you were purchasing the stock in the bank, or purchasing the control of a bank in which you had no interest at all, would you accept past due paper of that [506] bank?

A. I might be perfectly willing to.

Q. Why do you use the word "might" so much?

A. Suppose that the notes, or some of them, were secured notes, and supposing that for some reason they did not care to renew those notes for that purpose, but supposing there was an endorser upon the paper or a portion of that paper which you could not gain at that time, I would certainly take the note as I found it in preference to renewing the note without the indorsement.

Q. And for that reason only you would accept past due paper.

A. I merely gave you an instance.

Q. It is only in some instances where it might destroy the integrity of some security, do I understand you to say?

A. That would be a sufficient reason.

Q. Well, would that be the only reason?

A. I don't think it would be the only reason.

Q. That is substantially the only reason you have given so far.

A. I am not undertaking to give you a full category of all the reasons in banking.

Q. Have you many other reasons?



(Deposition of W. H. Parsons.)

A. I do not recall any more.

Q. You do not recall any more—then you have given the full category which you recall.

A. For the moment.

Q. Now, there was also a note of Maddicks, Monhman & Kellogg in the sum of \$648.99, which you say was perfectly good—that is correct, is it not?

A. I so regarded it at that time. [507]

Q. Why did you allow that perfectly good note to remain past due for fifteen months and a half without collecting it?

A. I think you will find that was an instance where the paper was secured.

Q. And you simply let that remain past due for fifteen months and a half because the paper was secured? A. Yes, sir.

Q. You did not collect your notes, then, if you had security?

A. We would not if the security was upon the man's machinery, and he had a good proposition; we would not foreclose it and take the machinery away from him.

Q. Why not?

A. We did not so regard it as being good business.

Q. Were you running the bank for the benefit of your borrowers? A. Not necessarily.

Q. Were you afraid that it would be pressing your borrowers a little to require them to pay their debts?

A. That might not be good judgment on my part, or good business acumen.

Q. Would it have been in this particular instance

(Deposition of W. H. Parsons.)

good business acumen?

A. I don't think so, or I would not have done it.

Q. Your attention was called also to a note of the Tanana *Trading* Company in the sum of \$2,175.82 which had been past due for fifteen months and a half; that is another one of those perfectly good notes, isn't it?

A. It was a note, I presume, which you will find that had an endorser upon it. I think in that particular instance [508] that could not be gained for a renewal.

Q. Your attention has not been called to any endorser either by Mr. McGinn or myself, has it?

A. I think you will find a particular instance of this.

Q. Unless that note had an endorser upon it, you would not consider it a perfectly good note?

A. I would not say that. I say you will find that it had an endorser upon it.

Q. Suppose you do not find it to be a fact, what would you think about the note?

A. At that time I would have regarded that note, without an endorser—

Q. (Interrupting.) —as a perfectly good note?

A. I should think so.

Q. Was the Tanana Trading Company a corporation or a partnership?

A. I think it was a corporation.

Q. Why didn't you collect it, then?

A. It is difficult for me to say at this time why I did not collect it. Because of probably some good

(Deposition of W. H. Parsons.)

and sufficient reason.

Q. Probably, you say?      A. Yes.

Q. And there might not have been.

A. There might not have been what?

Q. A good and sufficient reason.

A. I should say obviously that there was a reason.

Q. But do you not recall what that reason was?

A. No.

Q. You assume that there was a reason merely because the [509] note was not collected.

A. I should say so, knowing the people.

Q. I say, that is the basis of your assumption, is it not?      A. How is that?

Q. Merely because the note was not paid, you assume that there was a reason for it.

A. Knowing the people as we knew them, and the volume of business we did with them, I should say there was some really good reason why it was not renewed.

Q. Another perfectly good note in the sum of \$3,307, given by J. A. Williams, which was past due over twenty-eight months—now, why was not that note collected?

A. I think you will find in the same instance that that was a note that was secured by collateral.

Q. You did not press a man if he had security, then?      A. If we thought best not to, we did not.

Q. If a borrower of your bank placed security with you at the time he made the loan two and a half or three years ago, you would just let him go, then, did you?

(Deposition of W. H. Parsons.)

A. I would, if I thought it was the part of wisdom.

Q. The security in this instance was mining machinery, was it not?     A. In some instances, yes.

Q. Would that security depreciate any in two or three years?

A. I would say all machinery would depreciate in time.

Q. Well, it depreciates in two or three years, too, doesn't it?     A. It must depreciate some each year.

Q. And in that length of time, you would probably know the value of the mining claim, too, would you not?     A. Not necessarily. [510]

Q. Well, you would be pretty likely to, would you not?     A. No.

Q. You would not have any idea?

A. I would have an idea, but many times those operators have worked two or three years before they get their ground opened up.

Q. And might it not be that the reason you did not collect these notes was because the mining claim on which you had loaned it, turned out to be worthless?

A. Not necessarily so.

Q. That is not necessarily so, but it might be the reason?     A. Anything might be.

Q. Well, you are indulging in a good many suppositions in explaining that it might be—are you not—now, another perfectly good note to which your attention was called was that of W. Sam Clark and others which had been past due for sixteen months in the sum of \$5,668; why didn't you collect that perfectly good note?

(Deposition of W. H. Parsons.)

A. I think I gave you every explanation regarding that note.

Q. What was the explanation?

A. I stated that that was secured by their property on the right limit of Esther Creek; that the property had been opened up, and it had been prospected and the pay streak located on it; that it is property that they had been offered \$20,000 for. The pay was located above and below that. We had a first mortgage covering that property, and at that time regarded it as sufficient security.

Q. And you would rather have this loan on a chance, than have the money?

A. I would not say that. [511]

Q. I don't think your attention was called to a note of Heilig & Tozier in the sum of \$513—what would you say about that note?

A. I should say that was a perfectly good note.

Q. Another perfectly good note? A. Yes.

Q. That note, at the time when you sold to the Fairbanks Banking Company, had been past due twenty-three months—why didn't you collect it?

A. I can't understand why we would not have collected it. Mr. Heilig was our attorney. There was not any time that we did not owe him \$500.

Q. Cannot you give any reason for not collecting it? A. No, I cannot.

Q. As a matter of fact, would there not be some usury included in the principal of that note, and did not Mr. Heilig assert usury, subsequently when the note was attempted to be collected?

(Deposition of W. H. Parsons.)

A. Never to me.

Q. There were a good many of those notes that included usury, didn't they?

Mr. McGINN.—We object to that as irrelevant and immaterial to the issues involved in this case, and I instruct the witness that he need not answer the question.

Mr. RIDER.—Do you decline to answer the question? A. What is the question?

Q. Was there not a considerable amount of usury included in the notes which your bank held, as a part of the principal of the note?

A. The legal rate in Alaska, I believe, was one per cent. [512] I have no doubt there are notes there that bore a rate of interest in excess of that.

Q. And when notes were renewed you added that usurious interest to the principal, and you made that part of the principal of the new note in a great many instances? A. I don't think that was the case.

Q. You don't think that ever occurred?

A. I say I don't think that was the custom.

Q. Did it ever occur? A. I do not recall.

Q. Is it not a fact that that was true as to the Heilig note?

A. I don't remember. I don't remember the note being contested.

Mr. McGINN.—That note has been paid.

Mr. RIDER.—It was not paid at the time you sold to the Fairbanks Banking Company and had not been paid for twenty-three months and I am trying to find out why the witness did not collect it.



(Deposition of W. H. Parsons.)

Q. Can you give me any reason?

A. Obviously, for a good and sufficient reason, why I regarded the note as perfectly good, and I suppose if we asked Mr. Heilig for payment, he would have paid it.

Q. But you did not trouble yourself to ask him?

A. I would not regard that as being the situation.

Q. Of these perfectly good notes which were past due, all the way from eight to twenty-eight months, there appears roughly to be a total of some \$13,000. Do you regard that as good banking?

A. Do I regard what? [513]

Q. Allowing those notes in that sum—

A. I must have so regarded it if I had permitted them to become past due.

Q. And you think that a purchaser of this stock used reasonable banking diligence when he passed those notes in that sum that have been past due all the way from eight to twenty-eight months, do you?

A. I do not regard the mere fact that a note is past due as necessarily blighting the collateral of that note materially.

Q. I am not asking you about that now.

A. Well, I am explaining it.

Q. You said that Mr. Dusenbury and Mr. Barnett carefully went over those notes?

A. Very carefully.

Q. And that you regarded those notes as being perfectly good and of this value, didn't you?

A. I do.

Q. Their face value?      A. I did.

(Deposition of W. H. Parsons.)

Q. You think that as a purchaser of the bank stock, Mr. Barnette and Mr. Dusenbury exercised reasonable diligence and reasonable care and circumspection in accepting this overdue paper, do you?

A. I regard that they did all that you say, and more—that they used good judgment and they got a splendid bargain.

Q. And you got a splendid bargain, too, didn't you, when you sold at that price?

A. I do not regard it as being so very splendid.

Q. Did you consider the bank worth more than \$250,000? [514]

A. I regarded it worth \$250,000.

Q. That is not what I am asking you—did you regard it worth more than \$250,000?

A. It was not a question as to my valuation or how high a valuation we put on it.

Q. You would not put any higher valuation than \$250,000 on it? A. I would not say that.

Q. Was Mr. Webster as familiar with those values as you? A. I think not.

Q. You think not? A. No.

Q. Were you eager to make this sale?

Q. Only as far as my health was concerned, personally.

Q. It was simply on account of your health that you sold? A. Very largely.

Q. You thought you were making a sacrifice in making the sale, did you?

A. I don't think I was getting more than it was worth, if that is what you mean.

(Deposition of W. H. Parsons.)

Q. You did not think you were getting more than it was worth?

A. No, no. If my health had not been poorly, I very much doubt that I would have cared to sell.

Q. And Mr. Webster did not want to sell at all?

A. Mr. Webster or Mr. Joslin, neither of them wanted to sell.

Q. But you induced them to make the sale?

A. I told them I did not care to remain in the country any longer. That my health would not permit it.

Q. Did you retain any of the stock of the bank after you made this sale? [515] A. No.

Q. None at all? A. No.

Q. Did you have control over any after that time?

A. I did not own any stock.

Q. You continued to act as a director, didn't you?

A. No.

Q. Are you sure of that?

A. Possibly I did temporarily, for a short time. I forget, it is so long ago.

Q. Didn't you act as a director for some considerable time, Mr. Parsons?

A. I don't think for any particular length of time.

Q. Didn't you act as a director up to as late as April, 1910?

A. For a short time after I came out I did represent them as a director out here, I think.

Q. And you had to have some stock to do that?

A. Yes, sir.

(Deposition of W. H. Parsons.)

Q. How much stock did you retain?

A. Well, I did not retain any of the original stock.

Q. Was there some more issued to you?

A. I think there was, yes.

Q. How much?

A. I don't remember—a qualifying share, I think it was.

Q. Who did you buy that from?

A. I do not recall now; I cannot remember.

Q. How much did you pay for it?

A. That I don't know.

Q. When did you buy it?

A. I could not tell you that. [516]

Q. Didn't you own more than one share?

A. I don't remember. It was a very nominal amount, sufficient to qualify, I guess.

Q. Do you remember whether you owned as much as five shares? A. It may have been that amount.

Q. What were those shares worth, par value?

A. I presume the par value would be one hundred dollars.

Q. You cannot say whether you owned as many as five shares?

A. I do not remember what the amount was.

Q. You do not remember whom you bought any from at all?

A. No. The stock was sent to me from the interior.

Q. And you don't know how it came to be sent to you? A. I do not.

(Deposition of W. H. Parsons.)

Q. Somebody just made you a present of it?

A. I imagine.

Q. Just a present?

A. They didn't make a present—they sent it out here as qualifying shares. I don't know what the consideration was.

Q. Why was it necessary to send you the qualifying shares?     A. How?

Q. I say, why was it necessary to send you the qualifying shares?

A. I presume to act as a director for a period.

Q. There were enough stockholders to make up the board of directors without retaining you?

A. Yes, but I don't think they had any one outside then at that time; they wanted a trustee—they wanted a quorum here to elect new officers or something, I forget the particulars now.

Q. So they just gave you five shares? [517]

A. I don't remember what the consideration was; it is five years ago.

Q. After those shares of stock had been transferred to you you gave an option back to the bank to repurchase them, didn't you?

A. I imagine I did, yes, sir.

Q. Don't you remember just whether you did or not?

A. No, I don't remember whether I did or not.

Q. Don't you remember on May 9, 1910, you gave an option to the bank to repurchase the five shares which you owned?

(Deposition of W. H. Parsons.)

A. I do not recall it, but I presume that I did if you have a record of it—I have not.

Q. And that was for what consideration, do you remember?     A. I don't remember.

Q. You don't remember?     A. No.

Q. The fact that you had sold your interest in the Washington-Alaska Bank to the Fairbanks Banking Company was kept secret for some time, wasn't it?

(Counsel for defendant objects as irrelevant, immaterial and incompetent.)

A. No, not kept secret.

Q. It was not made public, was it?

A. In what respect?

Q. Well, you know what making a matter public is, don't you?     A. Through the newspaper?

Q. Well, if that is your construction of the only way of making anything public.

A. When we left there we advertised in the papers, at least there was articles to the effect that we were leaving and [518] discontinuing our connection with the bank, both Mr. Barbour and myself, and going outside, and that *was I* going to associate myself with the Washington Trust Company.

Q. You advertised it through the papers, did you?

A. Yes.

Q. What papers did you advertise in?

A. I think that you will find it in the paper run by Mr. Thompson, I don't remember the paper.

Q. Notifying the public that you had severed your



(Deposition of W. H. Parsons.)

connection with the bank at all?

A. That I was leaving for the outside; that I would associate myself in future with the Washington Trust Company.

Q. And that your relations with the Washington-Alaska Bank were terminated?

A. I do not remember the exact wording of the article.

Q. You did not give that information, did you?

A. I do not recall just to what extent.

Q. Wasn't it understood that you were not to give that information?     A. No.

Q. And that the severance of your relations would be kept secret.

A. No, no, not to keep it secret, nothing of the kind.

Q. Did you and Captain Barnette undertake, after that time, or consider the organization of a bank composed of stockholders in Seattle and along the coast, which would purchase the stock of the three banks at Fairbanks?     A. No.

Q. No such proposition was ever considered by you?     [519]

A. No.

Q. Did you ever give any interview to the papers here in Seattle that such was your purpose?

A. No, sir.

Q. Was the fact of giving such interview discussed by you and Captain Barnette?

A. I don't know, I am sure—nothing that I had any connection with whatever.

(Deposition of W. H. Parsons.)

Q. Do you recall any consideration of such a matter?     A. No.

Q. Or the discussion of it?     A. No.

Q. And it ever being suggested to you?

A. No.

Q. Mr. Parsons, as a banker, when you expect to acquire the capital stock of another bank how do you go about it to inform yourself as to the value of that stock?

A. Go through the assets of the institution, and the liabilities.

Q. Well, is that all—just look them over?

A. Examine them.

Q. By examining them, what do you mean?

A. Go through them.

Q. Rejecting certain ones and accepting certain others, is that what you mean?

A. Going through and making an examination.

Q. Well, what do you do to advise yourself—how do you advise yourself what the stock is worth?

A. Exactly as I explained it, going through the assets and determining the value of the assets, in my opinion, [520] and the liabilities.

Q. How do you arrive at that valuation?

A. What do you mean “how do you arrive”?

Q. Don’t you know what I mean?     A. No.

Q. You don’t—well, suppose that some \$500,000 of notes were presented to you by the bank, how do you arrive at the valuation of those notes?

A. You go through the notes and look them up—

(Deposition of W. H. Parsons.)

look up the security and the moral risk back of those notes.

Q. And if you find any overdue, what do you do with them?     A. It would depend.

Q. That is all the answer that you want to make to that—"it would depend"?

A. Well, wouldn't it depend? You are asking a perfectly general question.

Q. You state that the book value of this bank was \$206,000 at the time it was sold to the Fairbanks Banking Company.

A. I think that was the figure.

Q. What was the other \$44,000—wind?

A. What do you mean?

Q. You sold it for \$250,000, didn't you?

A. Yes.

Q. What was back of that \$44,000 then?

A. Goodwill.

Q. What else?

A. \$20,000 of accrued interest that was not carried on the books.

Q. Anything else?

A. Goodwill, as I stated—earning power of the business and [521] of the institution.

Q. That is the goodwill, isn't it?     A. Yes, sir.

Q. Then the goodwill and the accrued interest was all there was back of this \$44,000?

A. That would be approximately it, yes, goodwill—the value of the business.

Q. And against that ought there not to be charged something for this overdue paper?     A. No, sir.

(Deposition of W. H. Parsons.)

Q. Absolutely nothing?

A. No, sir, in my opinion.

Q. Do you know why all of these perfectly good notes aggregating \$70,040.40, a list of which has been called to your attention by Mr. McGinn, were not collected by the Fairbanks Banking Company between the time that they took them over on September 13, 1909 and January 1, 1911, when the receivers were appointed?

A. No, I would be unable to tell you why they were not collected.

Q. No reason on earth for not collecting them, was there?

A. I can't say that; I cannot tell you the reason why they did not collect them.

Q. There is no reason that occurs to you?

A. It would seem to me that they should have been more successful than they had in their collections?

Q. They were all perfectly good, were they not?

A. I have given you my opinion.

Q. And that opinion was that they were all perfectly good, wasn't it—now don't you care to answer that? [522]

A. I have given you my opinion repeatedly and I have reiterated it.

Q. I believe you stated that the bank building, its real estate, its furniture, fixtures and vaults were worth \$17,536.23, being the amount they are carried at, on September, 1909, is that correct?

A. We so regarded it at that time.

Q. Did you return to Fairbanks at any time after

(Deposition of W. H. Parsons.)

you sold this bank stock?      A. No.

Q. You haven't kept yourself acquainted with the value of real estate then since you left Fairbanks?

A. I have paid no attention to it.

Q. You would know nothing about its value in April, 1910 then?      A. No.

Q. You say that the earning power of this bank was \$15,000 a year; did you declare dividends in that sum each year?

A. I could not say each year to that extent, but I would say in the aggregate of the years we were there it would amount to approximately that.

Q. For each year \$50,000 of dividends were declared, on an average? .

A. Approximately. That you will understand, is just an estimate offhand.

Redirect.

Q. (Mr. McGINN.) The Washington-Alaska Bank of Washington was the leading bank in Fairbanks?      A. Yes.

Q. And had the largest deposits?

A. The largest deposits.

Q. And it handled more gold-dust than any other?

[523]      A. I think it did, yes.

(Deposition of witness closed.)

(Whereupon the further taking of depositions is adjourned until Monday, March 16, 1914 at the hour of 10:00 o'clock A. M.)

[Endorsed]: Received Clerk of the Court Office, Apr. 20, 1914, Fairbanks, Alaska. Filed in the District Court, Territory of Alaska, 4th Div. Apr. 20,

(Deposition of E. L. Webster.)

1914. Angus McBride, Clerk. By P. R. Wagner, Deputy. [524]

Mr. McGINN.—I will now read the deposition of Mr. E. L. Webster. (Reads deposition.) [525]

**[Deposition of E. L. Webster, for Defendants.]**

E. L. WEBSTER, produced as a witness in behalf of defendants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. McGINN.) State your name.

A. E. L. Webster.

Q. Where do you live? A. Seattle.

Q. How long have you resided in Seattle?

A. About six years.

Q. Prior to living in Seattle where did you live?

A. Well, I spent most of my time in Alaska. I did not live any place in particular.

Q. When did you first go to Alaska or the Yukon Territory? A. About 1899.

Q. You went to Dawson at that time?

A. Yes, sir.

Q. And you continued to live in Dawson and Alaska until up to a couple of years ago, more or less?

A. About four years ago I made my last trip up there.

Q. What is your business, Mr. Webster?

A. I am representing the New York Life.

Q. The New York Life Insurance Company?

A. The New York Life Insurance Company.

Q. How long have you represented them?

A. Sixteen years.



(Deposition of E. L. Webster.)

Q. And what position do you hold with them now?

A. I am manager for Alaska and the Yukon Territory now.

Q. Are you acquainted with an institution that is known as the Washington-Alaska Bank, a corporation of the State of Washington? [526]

A. Yes.

Q. Were you one of the original incorporators of that institution? A. Yes.

Q. It was engaged in banking in Fairbanks, Alaska? A. Yes.

Q. Are you acquainted with the value of that bank in the month of September, 1909? A. Yes, sir.

Q. I will ask you to state whether or not at that time you had negotiations, that is if the Washington-Alaska Bank had negotiations with the Fairbanks Banking Company with regard to the purchase by the Fairbanks Banking Company of the Washington-Alaska Bank. A. Yes, sir.

Q. By whom were those negotiations carried on, if you know, Mr. Webster?

A. I think Captain Barnette, but I know that the board of trustees of the Fairbanks Banking Company were in session daily at that time.

Q. That is, Captain Barnette representing the Fairbanks Banking Company. A. Yes, sir.

Q. And who represented the Washington-Alaska Bank?

A. Mr. Parsons, Mr. Joslin and myself.

Q. You finally agreed to sell the Washington-Alaska Bank to the Fairbanks Banking Company,

(Deposition of E. L. Webster.)

didn't you?      A. Yes.

Q. At what price?

A. Two hundred and fifty thousand. [527]

Q. Two hundred and fifty thousand dollars?

A. Yes.

Q. I will ask you to state whether or not, in your opinion, the Washington-Alaska Bank, a corporation of the State of Washington, was worth the sum of two hundred and fifty thousand dollars at the time of the sale and transfer to the Fairbanks Banking Company, a corporation?

MR. RIDER.—That is objected to for the reason that the witness has not shown himself competent to give such testimony.

A. At that time I thought it was worth more than that.

Q. (MR. MCGINN.) More than the sum of two hundred and fifty thousand dollars?      A. Yes, sir.

Q. I will ask you to state whether or not you are acquainted with the resources and liabilities of the Washington-Alaska Bank at that time?

A. To a certain extent.

Q. You owned about how much of the stock?

A. A quarter.

Q. And Mr. Joslin owned a quarter?      A. Yes.

Q. And Mr. Parsons a quarter?      A. Yes.

Q. And Mr. Schram a quarter?

A. The Washington Trust Company and Mr. Schram a quarter.

Q. How much over the sum of two hundred and fifty thousand dollars did you think that the Wash-

(Deposition of E. L. Webster.)

ington-Alaska Bank of Washington was worth at that time?

A. I don't know that I thought of any particular figure. I just simply did not want to sell my interest for that. [528]

Q. Why?

A. Because on account of the profits that it had been making and on account of the very bright future as it looked to me at that time, of the institution.

Q. Do you remember what the deposits of the bank was at that time?

A. As I remember, about seventeen hundred thousand dollars.

Q. Do you remember about how much cash there was on hand?

A. I think seven or eight hundred—seven hundred thousand, or in the neighborhood of seven hundred thousand—possibly eight, I don't just remember that.

Q. How much had the bank been paying prior to the time of the sale, approximately I mean?

A. The profits had been running about fifty thousand dollars a year from the time that it was incorporated.

Q. I will ask you to state whether or not it was a well established business? A. Very well indeed.

Q. I will ask you to state whether or not it was the leading bank in Fairbanks at that time?

A. It was the leading bank.

Q. And it had the largest number of depositors?

A. It had the largest number of depositors.

Q. And the largest accounts?

(Deposition of E. L. Webster.)

A. And the largest accounts.

Q. I will ask you to state whether or not, in your opinion, an institution like the Washington-Alaska Bank, having the resources that it had at that time, taking, of course, into consideration its liabilities and the fact that for a period of about four years it had been declaring [529] a dividend of about fifty thousand dollars a year, having at that time in the neighborhood of seventeen hundred thousand dollars on deposit, and having the standing and the goodwill in the community that the Washington-Alaska Bank of Washington had at that time, was worth in your opinion the sum of two hundred and fifty thousand dollars.

Mr. RIDER.—That is objected to for the reason that the witness has not shown himself qualified to answer.

A. Well, I could answer that best by saying that I did not want to sell my interest at that price.

Q. You regarded your interest worth more than that.

A. I regarded my interest worth more than that.

Q. I wish you would go on and just state what opposition, if any, you made at that time to the sale.

Mr. RIDER.—I object to that as irrelevant, immaterial and incompetent.

A. It seems that Mr. Parsons had been negotiating with Captain Barnette and had received a telegram from the Washington Trust that they were willing to sell at two hundred and fifty thousand dollars, provided that the other stockholders were agreeable.

(Deposition of E. L. Webster.)

Mr. Parsons' health had been very bad for a year, possibly two years, and he felt that he had to leave. I had a number of talks with Mr. Parsons and a number of talks with Mr. Joslin. Mr. Joslin agreed with me that we ought not to sell, particularly if Parsons could stay, but finally agreed that if Parsons would not stay that he would sell; and after, possibly, two weeks of bartering backwards and forwards in that way, I agreed with the other three that I would [530] sell, but I never would have sold only that they all agreed—the other three had agreed.

Q. (Mr. McGINN.) You did not want to block the sale?

A. I did not want to block it, and keep Mr. Parsons away from getting outside, if he felt that it was absolutely necessary for him to do so.

Q. Was there any talk between you and Mr. Joslin at that time in regard to getting somebody else to take the management of the bank?

A. Yes, sir, we talked that over very carefully many times.

Q. Who did you figure on getting?

A. Well, we talked of Mr. Barbour.

Mr. RIDER.—This is all objected to as irrelevant, immaterial and incompetent.

A. (Continuing.) We talked of Mr. Barbour, Mr. Hawkins, and Mr. Findlaison of Dawson.

Q. (Mr. McGINN.) Connected with what bank?

A. With the Bank of British North America.

Q. What position did he occupy in it?

A. At that time he was the assistant manager and

(Deposition of E. L. Webster.)

later manager of the Bank of British North America.

Q. Do you know what investigation was made by the officers and directors of the Fairbanks Banking Company with regard to the assets and liabilities of the Washington-Alaska Bank of Washington, prior to the time of its purchase by the Fairbanks Banking Company?

A. I know that they did examine them very carefully for possibly a week or two.

Q. Do you know by whom that examination was carried on?

A. I would not say for sure. I know Captain Barnette was [531] always present and active. I rather think that Bert Jackson or Dusenbury—Dusenbury and Bert Jackson, possibly, were active in that examination. I know that they looked the books over carefully.

Q. At that time that is, upon the 15th day of September, 1909, the Washington-Alaska Bank was carrying the building and real estate in the sum of \$17,536.23; now state whether or not, in your opinion, that was a fair valuation upon that property.

Mr. RIDER.—I object to that for the reason that the witness has not shown himself qualified to answer.

A. I should think so.

Q. (Mr. McGINN.) You had spent considerable time in Fairbanks, had you not?

A. I had been there every year from the beginning of the camp.

Q. Were you acquainted with the values of real estate in the neighborhood of the Washington-Alaska



(Deposition of E. L. Webster.)

Bank of Washington?

A. Yes, sir. I owned a half interest, I think, right across—in the building across the street.

Q. And you feel as though you are competent to pass upon the fair and reasonable value of lots in the town of Fairbanks and in that neighborhood?

A. I should think so.

Q. You said that Mr. Joslin was reluctant to sell; that he was of the same opinion you were, in other words?

A. He was of the same opinion I was, provided Mr. Parsons would stay, or we could find a man of equal ability.

Q. Mr. Parsons had been actively in charge of the business [532] from its inception up to this time?

A. From the start.

Q. And, of course, he knew more about the details of the business than any other of the officers, directors or stockholders of the institution.

A. Yes, sir.

Cross-examination.

Q. (Mr. RIDER.) Mr. Webster, do you remember the amount of the capital stock of the Washington-Alaska Bank? A. At that time?

Q. Yes, sir. A. \$150,000.

Q. Were you living in Fairbanks at the time of the sale? A. Yes, sir.

Q. And were you in charge of the affairs of the Washington-Alaska Bank? A. No, sir.

Q. What business were you in at that time?

A. I was in the insurance business.

(Deposition of E. L. Webster.)

Q. You were not an officer in the Washington-Alaska Bank?    A. A trustee.

Q. You had a board of trustees which acted the same as a board of directors?

A. Yes, sir, or I was a director—you can call it either way.

Q. Did your board of directors frequently go over the assets and liabilities of the Washington-Alaska Bank?    A. Well, in a general way.

Q. How do you mean by that?

A. We would discuss the deposits and the loans—the individual [533] loans quite often. I had my office in the bank building.

Q. You mean you would discuss them as individuals or as a board of directors?    A. Both.

Q. Did you ever, as a board of directors, go over the notes that were held by the bank?

A. Why, I could not say as to that—the entire holdings—I don't just remember.

Q. Did you ever personally examine the notes that were held by the bank?    A. In a general way.

Q. Well, what do you mean by “a general way”?

A. I would overlook and be present at these several meetings we would have every year.

Q. You would only have a meeting once a year.

A. We would have several meetings.

Q. How frequently would you have them in the year?

A. I don't know—we met—besides the annual meeting we met on call.

Q. At those meetings did you ever at any time have

(Deposition of E. L. Webster.)

all of the notes of the bank before you?

A. I don't know as to that.

Q. You do not recall any particular occasion?

A. I do not recall whether they were all checked over and discussed or not.

Q. You would just have a lump statement of the amount of the note.

A. Well, we knew pretty well—Mr. Joslin and I knew pretty well the loans that were made and the people who had the loans. [534]

Q. That is at the time the loan was made.

A. Yes, sir.

Q. Afterwards did you ever talk those loans or check them over to see whether or not they were paid? A. Yes.

Q. To see that they were paid?

A. Yes, sir, we looked them over very carefully.

Q. What was your custom respecting past due paper?

A. Well, the rules of the bank was not to carry any past due paper unless the interest was paid. We would try and get it removed and keep the interest paid.

Q. If you remember you may state then what was your custom. A. To collect it if possible.

Q. And if not possible, then what?

A. Mr. Parsons was always doing the best he could to get it collected.

Q. What was your custom about collecting it; did you still carry it as an asset of the bank?

A. I don't know. As I remember now, there were

(Deposition of E. L. Webster.)

small notes charged off every year that were considered worthless. I do not think, as I remember it—I don't think any notes were ever carried as assets that we did not consider collectible.

Q. Well, as to whether or not they were past due; did you continue carrying any considerable amount of past due paper as assets of the bank?

A. I don't know that I could answer that. If the note was good it was carried. If we considered it good it was carried as an asset even though it might happen to be past due. [535]

Q. Would you take any steps for renewals of it?

A. Yes, sir.

Q. How long would you allow a note to remain in the bank without a renewal after it became past due?

A. I don't know—not being in any way connected with the management of the bank, I was depending upon the manager for that end of it.

Q. As a director you were connected with the management of the bank.

A. As a director I was connected for awhile, not all of that renewing and collecting of notes came up to the manager of the bank.

Q. Did it ever come up to the board of directors, that fact that there was a considerable quantity of past due paper in the bank?

A. Well, I generally knew how much there was.

Q. Can you give me an idea what was your custom as to the amount which you usually carried?

A. No, I could not. I made no memorandum of it.

Q. In figuring the value of bank stock what do you

(Deposition of E. L. Webster.)

do respecting past due paper?

A. Well, I did not figure that we had any paper that was not good at the time.

Q. I did not ask you that; I asked you, in figuring bank stock how you would dispose of past due paper, as to the value of that?

A. Well, I did not figure any value of it—I did not figure any value on it.

Q. You mean you eliminated it from the value?

A. I did not figure it at all—I was only going on the [536] past record of the bank when I got at the value of my stock.

Q. You figured, then, that because the bank had been paying dividends and had been earning profits in the amount of \$50,000 a year, that that fact of itself satisfied you that the stock was worth \$250,000, with reference to the past due paper that was in the bank, or the liabilities? A. Yes.

Q. Well, would you have considered the paper in that bank, paper which should be carried as an asset of the bank, figured as an asset of the bank, in determining the value of its stock, which was as much as two years past due?

A. Well, I would, if it was good.

Q. Just take paper of that kind that was two years past due; would you have considered that when you were buying the stock of the bank, as an asset of the bank?

A. When you are figuring past due paper, are you figuring that there was no interest paid during that time?

(Deposition of E. L. Webster.)

Q. Well, we will take it that there is no interest paid. A. During that time?

Q. Yes.

A. Well, if I was figuring the value of that particular note I would not figure it at one hundred cents on the dollar.

Q. How much would you depreciate that note?

A. I don't know.

Q. The valuation which you have placed on the stock is based upon your desire to sell it or not, is it not, and not upon the valuation as a purchaser?

A. Yes, sir, you can put it that way. [537]

Q. Now, if you were buying stock in the Washington-Alaska Bank, would you not have examined the character of its past due paper and the amount of it?

A. I certainly would.

Q. If you had been buying stock in the Washington-Alaska Bank at that time, would you have paid par for past due paper?

A. Why, I am not competent to answer that—I would if I wanted it.

Q. As a purchaser of that stock?

Mr. McGINN.—We object to that, because it is not a question whether the paper is past due or not; it is simply a question as to the value of that paper—paper may be past due and still perfectly good.

Q. (Mr. RIDER.) As a purchaser of the stock of the Washington-Alaska Bank would you not have required them to have charged off their past due paper before you figured the value of the capital stock?

A. Well, that would be—that would depend en-



(Deposition of E. L. Webster.)

tirely upon the deal.

Q. Suppose that the paper was past due for as much as two years?

A. I might want them to charge it off.

Q. As a purchaser?

A. As a purchaser, but I might buy the stock if they did not charge it off—that depends entirely upon the buyer.

Q. Did you know that on September, 1909, there was held by the Washington-Alaska Bank notes which were past due which aggregated over \$70,000?

A. I did not know the exact amount; I knew there was some notes [538] past due.

Q. Did you know as a director that there were notes in that sum or about that sum which were past due at that time? A. I did not know the amount.

Q. Did you understand—

A. (Continuing.) I knew that there was some past due notes, but I did not pay much attention as to how much.

Q. You did understand that it was in an amount nearly as large as \$70,000.

A. I did not pay any attention to that.

Q. Did you know what the total amount of the loans carried by the Washington-Alaska Bank was on September 13, 1909? A. No.

Q. You did not know whether it was in the neighborhood of \$260,000 or not?

A. Well, I should think it was more than that, but I did not know.

Q. Assuming that it was \$258,000 and that there

(Deposition of E. L. Webster.)

was \$70,000 of those notes past due, would you still think that that stock was worth \$250,000?

A. Yes, sir.

Q. You are willing to take past due paper as a purchaser? A. I did not say that.

Q. But as a seller you were willing to unload it?

A. As a seller I was finally willing to sell at that price.

Q. Glad to sell at that price?

A. I can't say I was glad to—I did not want to sell.

Q. At that time you say it was not known to you that of the total amount of notes which the bank carried, over \$70,000, were past due. [539]

A. I did not pay any attention to that part of it.

Q. That did not concern you as a seller very much?

A. No, sir.

Q. Were you acquainted with the individuals whose notes the Washington-Alaska Bank held at that time? A. Generally.

Q. Did you know one W. M. Anderson?

A. Is that the drug man?

Q. Yes. A. Yes, sir, very well.

Q. Did you know that he had a note which had been due for over two years, held by the Washington-Alaska Bank at that time, in the sum of \$125?

A. I do not remember that.

Q. Would you have considered, as a purchaser, a note of W. M. Anderson which had been past due for over two years worth its face value?

Mr. McGINN.—To which we object on the ground that that is a note of W. M. Anderson and Oscar

(Deposition of E. L. Webster.)

Anderson—there were others in connection with it.

Q. (Mr. RIDER.) Would you have considered a note of the firm of W. M. Anderson and Oscar Anderson, held by the bank and which had been past due for over two years, or for two years, as a par asset of the bank if you were, as a purchaser, seeking to buy the stock of that bank, for the sum of \$125?

A. Well, I should think that the Anderson boys' note for \$125 would be good. I do not just understand why it was so long past due.

Q. Would not the fact that it was so long past due [540] depreciate the value of that note in your estimation as a purchaser of the stock of that bank?

A. If I had been a purchaser of the bank I do not think I would have paid much attention to a small note like that.

Q. You would have paid no attention at all to a note like that because of the size of it; is that it?

A. Because the Anderson brothers I would consider good for the amount.

Q. And you would take their note even though it had been dishonored for two years?

A. Had there been any interest paid on that note?

Q. Well, we will say that there had been none paid on it.

A. I do not remember anything about that particular case—I do not know whether I would have considered it or not.

Q. Suppose the interest had been paid in it, then what?

(Deposition of E. L. Webster.)

A. I would consider the note absolutely good.

Q. You would consider the note absolutely good even though it was two years past due?

A. Yes, sir.

Q. As a director did you sanction paper remaining in your bank until it was over two years past due?

A. I think interest could be paid on a past due note to keep it alive all the while.

Q. And you would consider that good banking?

A. I was not doing the banking.

Q. You were a director.

A. I was a director of the bank, but had nothing to do with the active management of it.

Q. The officers of the bank were subject to the control of [541] the directors, were they not?

Mr. McGINN.—That is admitted, that is a legal conclusion.

Q. (Mr. RIDER.) You knew that, didn't you?

A. I knew it, but I paid no attention to it.

Q. The fact of the matter is, you did not know that the officers of the bank were permitting these past due notes to remain in the bank, did you?

A. I may have known that as to any notes of consequence, but I paid no attention to a trifling note like that.

Q. Would you consider a note in the sum of \$5,668.30 one of consequence?

A. I should say so.

Q. You did not know that the note of W. Sam Clark in that sum was in your bank and had been

(Deposition of E. L. Webster.)

due for sixteen months?

Mr. McGINN.—To which we object on the ground that it is irrelevant, immaterial and incompetent and it is not a question as to whether or not the note was past due, but the question is as to what was the value of the note at that time and the probability of its being paid and the responsibility of the parties who signed the note.

A. I would consider Mr. Clark's note good for that amount.

Q. (Mr. RIDER.) Even though his note had been past due for sixteen months? A. Yes, sir.

Q. And as a director of the bank you would have authorized your cashier to retain that note without any renewal, although it was past due for sixteen months?

A. Well, that would be possible that there was some good excuse for it not being renewed; he may have been out of town or he may have been paying the interest, or [542] something of that kind.

Q. Could he not have been found within sixteen months?

A. I do not say as to that. I know that he is in and out—he is an operator.

Q. If you had been a purchaser of the stock of that bank, instead of a seller, on September 13, 1909, would you not have required that note of W. Sam Clark's that I just called your attention to, to be charged off?

Mr. McGINN.—That is objected to as irrelevant, immaterial and incompetent and it is not a question

(Deposition of E. L. Webster.)

as to what he would require or his opinion as to what the bank should require, but it is a question as to the value as an asset of this particular note at that time.

A. Well, not necessarily. I might have been mighty glad to have gotten hold of the stock of that bank if I had been a purchaser, regardless of past due notes.

Q. (Mr. RIDER.) And to take this note at that valuation? A. Certainly.

Q. You think as a purchaser you would have done that? A. I might have done it.

Q. Well, would you have done it?

A. I can't say that. I was not a purchaser, but I might have been mighty glad to have bought it if I had been the other fellow.

Q. What makes you think that you might have been so glad to have bought it?

A. Because it was the bank in town that was doing the business of the town and if I had owned the Fairbanks Bank and could have bought the stock of that I would not have considered the price that I was paying for it— [543] I would have considered getting it, just the same as they did.

Q. I don't understand what you mean by that.

A. I mean by that that as a seller I was not necessarily furnishing one hundred cents on the dollar in stock and in assets.

Q. Oh, I understand you.

A. (Continuing.) I was selling it for \$250,000—not whether the stock was worth that or not.



(Deposition of E. L. Webster.)

Q. You did not consider then it was necessary to consider the value of the stock in that sale?

A. No, I was not—

Q. (Interrupting.) It was just worth what you could get for it, is that it?

A. I thought it was worth more than I could get for it.

Q. I believe you stated that you were very reluctant to sell and only sold because of the fact that Mr. Parsons could not remain there?

A. I only sold because the other three were willing to.

Q. Well, you spoke something about your reluctance to sell as being affected by the fact that Mr. Parsons could not remain there?     A. Yes, sir.

Q. That had considerable to do with it?

A. That had considerable to do with it.

Q. Mr. Parsons was himself a considerable asset of that bank, wasn't it?     A. I should think so.

Q. And really a larger asset than any other individual asset that the bank had, wasn't he? [544]

Mr. McGINN.—We object to that.

Q. (Mr. RIDER.) His personality.

A. I cannot put a value on his personality in dollars and cents.

Q. Well, without Mr. Parson's connection with that bank how much would you have paid for it?

A. Well, if I had been a buyer and wanted it I would have paid what I had to pay to get it.

Q. How much would you have considered the stock worth ?

(Deposition of E. L. Webster.)

A. I would have considered the property cheap at \$250,000, if I had been an opponent of the bank.

Q. Even without Mr. Parsons' connection?

A. Yes, sir.

Q. Then Mr. Parsons' connection with the bank did not enhance the value of the stock a bit, did it?

A. Physically, possibly not.

Q. Why did you not remain there then and retain your stock if you were reluctant to sell?

A. Because Mr. Joslin and Mr. Schram and Mr. Parsons agreed to sell, provided I would, and I was simply just whipped into line.

Q. Then the fact of Mr. Parsons leaving the bank did not have anything to do with your selling, except that you wanted to retain your personal relations with him, is that it?

A. I did not want to sell if we could keep the bank in as good hands as Mr. Parsons—as I considered Mr. Parsons was.

Q. Then you do consider that Mr. Parsons himself was a considerable asset to that bank, don't you?  
[545]

Mr. McGINN.—Objected to as incompetent, irrelevant and immaterial.

A. I would consider him valuable.

Q. (Mr. RIDER.) And that value a purchaser of the stock would lose when Mr. Parsons retired, would he not?

A. Not necessarily. They were buying it with the understanding that he would retire.

Q. Now, did you know that there was a note held

(Deposition of E. L. Webster.)

by that bank on September 13, 1909, signed by Garvin, Simonson et al., which was twenty-eight months past due, in the sum of \$6,717.34?

A. I don't remember that particular note.

Q. Did you regard that note as good?

A. Well, I can't say that I know very much about that note.

Q. As a purchaser of the bank would you have accepted that note at that sum?

Mr. McGINN.—To which we object, because the witness is shown clearly to be incompetent, because he says he knows nothing about that particular note and does not recall at this time that particular note and he cannot say what he would do then.

Q. (Mr. RIDER.) You are acquainted with those parties, Garvin, Simonson & McRae?

A. Just in a personal way.

Q. You know their financial standing and you knew it at that time, didn't you?

A. Well, I should have considered that note good at that time.

Q. And as a purchaser at that time you would have taken that note, even though it was twenty-eight months past [546] due?

A. At this time I do not know what the security was. I do not know anything of the particulars of it. I probably would have taken that note at that figure, as far as I know now.

Q. Even though it was twenty-eight months past due?

A. Well, I don't know anything about that particular note.

(Deposition of E. L. Webster.)

Q. Assuming that it was twenty-eight months past due?

A. Was there no interest paid on that?

Q. Well, we will say no that there was not.

A. Of course I do not know what the circumstances were that it should be so long past due.

Q. Well, assuming that the interest had been paid, then would you have taken that note?

A. I considered the note good, of course.

Q. Why did you not take new notes for those notes? A. I don't know.

Mr. McGINN.—We object to that—what difference does it make whether it was the old note or a new note, the obligation was there just the same.

Mr. RIDER.—You know as a lawyer that it makes a difference when a note is past due.

Mr. McGINN.—When it is held by the bank what is the difference whether it is past due or not?

Mr. RIDER.—You know better than that; when a note is assigned you know the effect of it.

Q. Were you acquainted with the Tanana Trading Company at that time?

A. I might know the names of the individuals better than I would the name of the company. [547]

Q. I do not know anything about it except the name of the Tanana Trading Company.

Q. Was that the Dickey Company or the Clark?

A. I can't tell you—did you know that there was a note held by the bank on the 13th day of September, 1909, of the Tanana Trading Company in the sum of

(Deposition of E. L. Webster.)

\$2,175.82, which was fifteen and a half months past due?

Mr. McGINN.—I object to that as irrelevant, immaterial and incompetent and as not tending to show the value of the note at that time.

A. What was the question?

Q. (Mr. RIDER.) I asked you if you knew that there was a note held by the bank on the 13th day of September, 1909, of the Tanana Trading Company in the sum of \$2,175.85 which was fifteen and a half months past due? A. I do not remember it.

Q. Mr. Webster, have you been engaged in the banking business to any other extent than your connection with the Washington-Alaska Bank?

A. No, sir, except as a stockholder in the Dexter Horton National Bank.

Q. Are you a stockholder now in the Dexter Horton National Bank? A. Yes, sir.

Q. You are not an officer in that bank?

A. No, sir.

Q. You are not familiar, then, with the handling, the buying and selling of bank stock?

A. Well, now, I never had bought and sold very much.

Q. Well, you never sold any except the Washington-Alaska Bank [548] stock, did you?

A. No, sir.

Q. And you never bought any except the Dexter Horton National Bank stock? A. No.

Q. When did you buy your Dexter Horton National Bank stock?

(Deposition of E. L. Webster.)

A. I bought several little lots from time to time.

Q. Were you acquainted with A. Rippa?

A. Yes.

Q. You were acquainted with him?

A. Yes, sir.

Q. Did you know that he had past due paper in the bank on September 13, 1909, in the sum of \$3,766.66 which was over three months past due?

A. I did not know the particulars. I knew he was a debtor of the bank—I did not know the particulars.

Q. Did you know A. H. McNeer?

A. Yes, sir, very well.

Q. Did you know that he had past due paper in the bank on that day which was eight months past due, in the sum of \$726.56?

A. I knew he was a debtor of the bank.

Q. Well, did you know his paper was past due?

A. I don't remember.

Q. Can you say as to whether or not it is a custom in banking circles, or was such custom in September, 1909, to charge off past due paper?

Mr. McGINN.—To which we object. It is not a matter of custom; it is what this particular bank did.

A. What is the question? [549]

(Question repeated.)

A. I don't know.

Q. (Mr. RIDER.) What was your answer?

A. I don't know.

Q. I believe you stated that the real estate held by the bank, in your opinion, was worth \$17,536.23?

A. Yes, sir.



(Deposition of E. L. Webster.)

Q. When did you leave Fairbanks after you sold your stock?     A. I should say in about two weeks.

Q. Have you returned there since?     A. Yes.

Q. When was the next time you were back there?

A. The next spring.

Q. About what time?

A. Why, I think I reached Fairbanks in about May.

Q. Had real estate advanced any in Fairbanks by the time you got back there in May?

A. I don't know.

Q. You still owned real estate there?

A. And I still do yet.

Q. And you were as familiar with it in May as in September, were you not?     A. Yes.

Q. What would you think was the value of the Washington-Alaska Bank building and its real estate in, say, April or May, 1910?

A. I would not think that it had depreciated very much.

Q. Would you think it had increased any?

A. No, I don't know that it would have increased very much.

Q. You think it would have remained about the same? [550]     A. About the same I should think.

Q. Now, I believe you stated that the bank was carrying, in September 13, 1909, about \$700,000 in cash—are you just making a guess at that?

A. I was just making a guess at it. Of course every statement they had made for years would vary

(Deposition of E. L. Webster.)

up and down and I do not remember any particular annual statement.

Q. By the term "cash" do you include gold-dust and bullion, or just currency?

A. Well, I would say that the bank never carried very much gold-dust or bullion. Their cash on hand was usually actual cash. The bullion and gold-dust was shipped.

Q. That is just a matter of opinion on your part?

A. That is a matter of opinion on my part.

Q. Don't you know as a matter of fact that they had \$221,000 of gold-dust on hand?

A. It would be possible. They ship that much at a time. They ship as high as \$500,000 at the time.

Q. The opinion which you have given respecting the value of this stock, Mr. Webster, is based upon your standpoint as a seller? A. Certainly.

Redirect Examination.

Q. (Mr. McGINN.) You were around the bank a great deal of the time during the time that you were in Fairbanks, were you not? A. Yes, sir.

Q. And you and Mr. Parsons and Mr. Joslin had been very friendly and intimate for years? [551]

A. Yes, sir.

Q. And you naturally discussed the business of the bank between you day after day? A. Yes, sir.

Q. And as a matter of fact you knew about all the principal loans of the bank at that time, didn't you—you knew just about what they were?

A. I knew about what they were, yes.

Q. And you also had in mind at that time about

(Deposition of E. L. Webster.)

how much of those notes were good and about how much were bad?     A. Why, I should say so, yes.

Q. Now, what you considered bad notes or bad debts you wiped off at certain times, didn't you?

A. Every year they were charged off.

Q. Don't you know that it is very common to allow notes to continue past due in Fairbanks, in all the banks there?     A. Yes.

Q. For instance, take the note of Frank Lawson—you know T. F. Lawson?     A. Very well.

Q. At the time of the sale to the Fairbanks Banking Company there was a past due note of his in the sum of \$4,344.50—now, merely because that was past due would not affect its value in your mind, would it?     A. Not a bit.

Q. You knew he was absolutely good for it?

A. Absolutely.

Q. And there was a note of Heilig & Tozier for the sum of \$513 that was due from October 8, 1907; would you consider that a good note at that time? [552]     A. Absolutely good.

Q. There was a note of J. C. Kenney that was due from May 2, 1909, in the sum of \$156.03; would you have considered that note good?     A. Absolutely.

Q. There is a note of the Rose Cigar Company dated September 2, 1908, in the sum of \$1,060; would you have considered that a good note?

A. I would.

Q. The mere fact that it was past due would not make any difference to you in placing a valuation upon those notes as long as you knew that the par-

(Deposition of E. L. Webster.)

ties were good?     A. Not a bit.

Q. And that is true of all these notes here?

A. Yes, sir.

Q. Do you know any reason why that note against W. Sam Clark was not collected?     A. No.

Q. Do you know any reason why the note against Simonson was not collected?     A. No.

Q. You considered Arthur McNeer worth \$726, didn't you?     A. I did.

Q. And Oscar and Walter Anderson were engaged in the drug business?     A. Yes, sir.

Q. They were men of good standing in the community?     A. Yes.

Q. And their note for \$125 would be considered by anybody in there as good at that time?     [553]

A. I should say so.

Q. Do you know any reason why it has not been collected?     A. No.

Q. You knew in a general way just about the actual condition of the bank at the time of the sale to the Fairbanks Banking Company?     A. Yes, sir.

Q. And upon that and upon the standing of the bank in the community, you fixed the valuation which you have placed upon it.     A. Yes.

Recross-examination.

Q. (Mr. RIDER.) If those notes which Mr. McGinn called your attention to were good, why were they not collected while they were held by the Washington-Alaska Bank?     A. I don't know.

Q. Why were they not collected while held by the Washington-Alaska Bank prior to the time they

(Deposition of E. L. Webster.)

were transferred to the Fairbanks Banking Company?

A. I do not know. The interest may have been paid regularly on them.

Q. How much bad notes did the Washington-Alaska Bank hold in September, 1909?

A. I do not know.

Q. Did it hold any?      A. I don't know.

Q. You stated it was the custom to charge off each year the bad notes; what time in the year did you make that charge-off? [554]      A. I don't know.

Q. You don't know?

A. I could not tell you that.

Q. Well, you say—you stated that such was the custom, didn't you?

A. It was—I don't know—what I meant by that—I don't know that they were charged off at any particular time. I am rather inclined to think that they were charged off when it was discovered that they could not be collected.

Q. You stated that at the end of each year you charged off the bad notes, didn't you?

A. I presume that at that time any that had not been charged off before were charged off.

Q. At the end of each year?

A. Well, I would not say that positively.

Q. When did your fiscal year begin?

A. I might qualify my statement about not being more familiar with the bank, in this way, that I was not a trustee or a director in the bank at the beginning—possibly the first three or four years—at the

(Deposition of E. L. Webster.)

beginning of the bank I was not a trustee.

Q. How long were you a trustee prior to the sale?

A. I should say a year, I would not be positive about that.

Q. Were there any bad notes charged off during the time you were trustee?

A. Well, I don't know exactly about that.

Q. Well, you made some reference to charging off bad notes; do you know what the amount of the bad notes was that were held by the bank in September, 1909?

A. I do not know anything about it. [555]

Q. It had some, didn't it?

A. I don't know that—it may have had for all I know.

(Deposition of witness closed.)

[Endorsed]: Received Clerk of the Court Office, Apr. 20, 1914, Fairbanks, Alaska. Filed in the District Court, Territory of Alaska, 4th Div. Apr. 20, 1914, Angus McBride, Clerk. By P. R. Wagner, Deputy. [556]

Mr. McGINN.—I desire now to read the deposition of F. E. Barbour. (Reads deposition.) [557]

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**[Deposition of Frank E. Barbour, for Defendants.]**

FRANK E. BARBOUR, produced as a witness in behalf of defendants, being first duly cautioned and sworn, testifies as follows:

Q. (Mr. McGINN.) State your name.

A. Frank E. Barbour.

Q. Where do you reside, Mr. Barbour?



(Deposition of Frank E. Barbour.)

A. Spokane, Washington.

Q. How long have you lived in Spokane, Washington?     A. About four years.

Q. What is your occupation, Mr. Barbour?

A. Auditor of the Day & Hansen Security Company.

Q. How long have you been with them?

A. A little over a year.

Q. And prior to that time what were you doing?

A. I was deputy state bank examiner for three years.

Q. For the state of Washington?     A. Yes, sir.

Q. Prior to coming to the state of Washington, where did you live?     A. In Fairbanks, Alaska.

Q. When did you go to Fairbanks, Alaska?

A. I went on April 6th, 1905.

Q. How long did you continue to live there?

A. Four years and a half.

Q. And while in Fairbanks, Alaska, what did you do?

A. I was cashier of the Washington-Alaska Bank during that time.

Q. And as cashier of the Washington-Alaska Bank of Washington, you were familiar with the resources and liabilities of that bank during the time that you were there?     [558]

A. I was; I had charge of them all.

Q. Were you at Fairbanks at the time that the Washington-Alaska Bank of Washington sold out to the Fairbanks Banking Company?     A. I was.

Q. And at that time were you familiar with the re-

(Deposition of Frank E. Barbour.)

sources and the liabilities of the Washington-Alaska Bank?     A. I was.

Q. Do you know, approximately, about what the amount of the deposits of the bank were at that time?

A. Yes, sir, approximately \$1,800,000.

Q. And do you remember about what their loans and discounts amounted to at that time?

A. No, I do not. It seems to me it was something like \$150,000; I am not sure about that though.

Q. \$258,000.     A. I know it was very small.

Q. Do you remember what percentage of cash you had on hand?

A. In our September 15th statement that year, somewhere along about—we had \$1,674,000—more than 93 per cent of the deposits on hand in cash or due from banks subject to our check.

Q. Do you know what the earning capacity of that bank was during the years 1905–6–7–8 and up to September of 1909?     A. Yes, sir, I do.

Q. Will you state approximately what they were per year?

A. Well, I don't know—I have not ever figured it, but the capital and surplus and profits as shown by the statement of September I think it was something like from two hundred and eighteen to two hundred and twenty-five [559] thousand—you might say nearly all profits from the business.

Q. But there had been dividends declared.

A. There had been dividends on approximately one hundred per cent of the capital declared at the end of the first year.

(Deposition of Frank E. Barbour.)

Q. The book values of the bank, according to the statement of September 13, 1909, was approximately in the sum of \$206,000; do you remember whether or not at that time there was earned accrued interest that was not included in the book values?

A. Yes, I remember making it up, but I could not say just what the amount was. It seems to me that I had in amount something about \$218,000. Now, what the other \$12,000 was made up of I could not say.

Q. Were you there at the time that the negotiations were carried on between the Fairbanks Banking Company and the Washington-Alaska Bank in regard to the purchase?      A. I was.

Q. Do you know the amount that the Fairbanks Banking Company paid for the Washington-Alaska Bank?      A. \$250,000.

Q. I will ask you to state whether, in your opinion, with the knowledge of the conditions of the Washington-Alaska Bank and the amount of business that they had done and their condition at that time, the sum of \$250,000 was a fair, reasonable and conservative price for the Washington-Alaska Bank?

(Counsel for plaintiff objects as irrelevant, immaterial and incompetent.) [560]

A. I think the price was very low.

Cross-examination.

Q. (Mr. RIDER.) Do you own any stock in the bank?

A. I own enough shares to make me a director.

Q. How many shares did that make?

(Deposition of Frank E. Barbour.)

A. One share?

Q. This item of \$218,000 to which you have referred, what was that made up of?

A. Capital, surplus and profits collected and uncollected, as I remember it.

Mr. RIDER.—That is all.

(Deposition of witness closed.)

[Endorsed]: Received Clerk of the Court Office, Apr. 20, 1914, Fairbanks, Alaska. Filed in the District Court, Territory of Alaska, 4th Div. Apr. 20, 1914, Angus McBride, Clerk. By P. R. Wagner, Deputy. [561]

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**[Testimony of Sidney Stewart, for Plaintiff  
(Recalled).]**

SIDNEY STEWART, resumes his testimony on direct examination.

Mr. McGINN.—Q. Have you got the daily record balance book of the Washington-Alaska Bank of date the 13th day of September, 1909?

A. The daily balance record book?

Q. The daily statement book. A. Yes.

Q. If you will take a piece of paper and a pencil again—What date is that?

A. September 13, 1909.

Q. What does it show the amount of assay clippings that there were on hand on that date, that is, gold? A. \$3,473.75.

Q. How much gold-dust?

A. Gold-dust \$221,919.71.

Q. How much gold bullion? A. \$6,000.

(Testimony of Sidney Stewart.)

Q. How much money did they have on deposit with the Washington Trust Company?     A. \$258,734.42.

Q. How much on deposit with Wells Fargo Nevada National Bank?     A. \$760,033.43.

Q. How much with the Bank of Manhattan?

A. \$2,630.47.

Q. How much with the National Bank of Commerce, Tacoma?     A. \$39,985.27.

Q. Puget Sound National Bank?     [562]

A. \$27,134.76.

Q. Seattle National Bank?     A. \$25,252.67.

Q. Dexter-Horton Company?     A. \$31,275.48.

Q. Canadian Bank of Commerce, Seattle?

A. \$342.21.

Q. Scandinavian-American Bank?     A. \$327.95.

Q. Canadian Bank of Commerce, Dawson?

A. \$3,212.39.

Q. Bank of British North America?

A. \$1,275.99.

Q. Valdez Bank & Mercantile Co?     A. \$505.29.

Q. Fairbanks Branch. That is Fairbanks Creek branch bank?     A. \$4,106.80.

Q. Fox Branch?     A. \$2,013.71.

Q. Cash in vault?     A. \$345,063.44.

Q. Now, all of this, except the cash that they had in the vault, and the gold-dust and bullion, was all subject to check, was it not, with the exception—

A. How is that?